



## ~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, Patricia Wiggins, Chair  
California Department of Fish and Game, John McCamman, Acting Director  
California Fish and Game Commission, Jim Kellogg, President  
California Fish and Game Commission, John Carlson, Executive Director

FROM: California Dungeness Crab Task Force

DATE: January 15, 2010

RE: Recommendations from the California Dungeness Crab Task Force regarding management of the fishery in accordance with SB 1690.

APPENDICES: (1) [SB1690](#)  
(2) [Tri-State Dungeness Crab Commission Memorandum of Understanding \(MOU\)](#)  
(3) [DCTF Membership List](#)  
(4) [DCTF Elections Frequently Asked Questions](#)  
(5) [DCTF Noncommercial Fishing Appointments](#)  
(6) [DCTF Charter](#)  
(7) [Summary of DCTF Votes](#)

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This report provides recommendations from the Dungeness crab task Crab Task Force (DCTF) to the Joint Committee on Fisheries and Aquaculture (Legislature), the California Department of Fish and Game (Department), and the Fish and Game Commission (Commission) that may inform future Dungeness crab fishery management changes. This work was completed pursuant to Senate Bill 1690 (2008) (Appendix 1). SB1690 requires a report by the DCTF by January 15, 2010 – the following report fulfills that requirement. However, the DCTF has additional issues it would like to discuss and details to be added to these recommendations – therefore there will be a second report submitted the DCTF by March 31, 2010.

**Additional information, including meeting summaries, 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 that has an average ex-vessel value<sup>1</sup> of approximately \$24.4 million a year. With the closure of the salmon fishery and the reduction of the groundfish fleet over the last few years, Dungeness crab is one of the most profitable fisheries remaining in California.<sup>2,3</sup> As a result, the collective demand of both fishermen and consumers has been shown to be shifting toward Dungeness crab. Consequently, there is desire to ensure the health of the Dungeness crab resource, to ensure that it may be fished in perpetuity, and to seize the opportunity to improve the economic health of the fishing communities who rely on the valuable resource.

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<sup>1</sup> Ex-vessel definition: Price received by fishermen for fish landed at the dock.

<sup>2</sup> Hackett, S.H. and King, D. 2009. The Economic Structure of California's Commercial Fisheries. Report Commissioned by the California Department of Fish and Game. [http://www.dfg.ca.gov/marine/eccf/eccf\\_report.pdf](http://www.dfg.ca.gov/marine/eccf/eccf_report.pdf)

<sup>3</sup> The Dungeness crab fishery is an important contributor to the economy of small port communities such as Crescent City

Approximately 80 percent of the Dungeness crab catch is landed in the first six weeks of the season, starting late fall and tapering off in the winter. Throughout the season, there is an obvious bidirectional regional influx of fishermen and gear, known as “effort shift,” along the California coast. Fishermen from all over the West Coast choose to fish in district 10 during the two-week early opener window (between November 15<sup>th</sup> and December 1<sup>st</sup>) to take advantage of the consumer demand for Dungeness crab during the Thanksgiving and Christmas holiday seasons. Following the December 1<sup>st</sup> northern opener, the effort shift moves to the northern regions and creates pressure on the northern extent of the fishery until catch tapers off in the winter.

There are numerous inactive, or “latent”<sup>4</sup>, Dungeness crab commercial fishing permits currently in California. Because latent permits represent unexploited fishing potential, many questions have been raised by members of industry about the economic and biological sustainability of the fishery into the future should latent permits in the Dungeness crab fishery be activated. The data (biological and fishery information) available to inform management on this and other issue has been shown to be significantly lacking.

The California Dungeness crab fishery is shaped by a diverse group of individuals, communities, and viewpoints. Opinions regarding the management goals and objectives for the California Dungeness crab fishery have been shown to generally vary by vessel size and homeport location<sup>5</sup> making it challenging for the group to agree on both long- and short-term goals and management changes for the fishery.

## **CALIFORNIA MANAGEMENT OF THE FISHERY**

The California Dungeness crab commercial fishery is currently managed by the Department pursuant to Fish and Game Code Section 8275 *et seq.*, which requires that the fishery be managed by a 3-S (sex, size, and season) principle, which allow for commercial harvest of only male crabs, greater than 6.25 inches, from mid-November or the beginning of December until the end of June or mid-July. This management strategy is considered very successful because males have the opportunity to reproduce several times before reaching legal size, females are protected from harvest, and the fishing season avoids the soft-shell and primary breeding period. The opening of the season for district 10 as well as districts 6, 7, 8, and 9 is designated by Fish and Game code. In districts 6, 7, 8, and 9, the code delegates the authority to delay the season opening to the Director of the Department if crabs are soft-shelled or low quality. Additionally, in 1995 a limited entry program<sup>6</sup> was implemented that served to limit the total number of permits in the fishery. Currently there are fewer than 600 permits: approximately 440 active and 160 latent.

In contrast to the commercial fishery, the California Dungeness crab sport fishery is managed by the Commission. The sport fishery is managed by season, daily bag limits, and by size. These regulations vary by region and are different for sport fishermen fishing from private boats versus sport fishermen fishing from commercial passenger fishing vessels.

## **WEST COAST MANAGEMENT OF THE FISHERY**

In 1996, the Tri-state Dungeness Crab process was established through a MOU between Pacific States Fisheries Management Commission and Washington, Oregon, and California to facilitate communication and cooperation between the states in managing their Dungeness crab fisheries (See Appendix 2 for MOU). Most notably, this agreement established preseason crab testing<sup>7</sup> from the Washington-British Columbia

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<sup>4</sup> Latent permits refers to a permit that has very few landing in recent years. The exact definition of “latent” was a significant discussion point – see DCTF Recommendation 4 later in this report.

<sup>5</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>6</sup> A limited entry program is a management scheme that restricts the number of permits in a fishery.

<sup>7</sup> The crab quality testing predicts the meat recovery rate by the December 1 season opener, from which the shell

border to Point Arena. Additionally, it is through the Tri-state committee that the three states have had the ability to discuss and align management of Dungeness crab in their respective states including coordinating fair start clauses.<sup>8</sup>

The Dungeness crab fisheries in Washington and Oregon are also high value fishery as well. In contrast to the California commercial fishery, the Fish and Wildlife Commissions in Oregon and Washington are significantly involved in commercial management of Dungeness crab. Historically, both states have experienced similar trends as the California fishery, including the presence of latent permits in the fishery, an increase of gear in the water, and a derby dynamic. In an effort to ameliorate these issues and distribute fishing throughout the entire Dungeness crab commercial fishing 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. While these management efforts have reduced the amount of gear in the water, there is no evidence that the pot programs actually reduce the derby dynamic of the fishery. Consequently, as presented by WDFW and ODFW staff at DCTF meetings, these efforts have been met with mixed reviews by the Dungeness crab industry.

## **SB1690**

In an effort to proactively alleviate issues of concern in California, SB1690 was passed in September 2008 to establish a Dungeness crab task force (DCTF) representative of the varied fishery interests. SB1690 (which added Section 8276.4 to the California Fish and Game Code) directs the DCTF to review and evaluate the Dungeness crab fishery and make recommendations to the Legislature, the Commission, and the Department. The bill designated the California Ocean Protection Council (OPC) as the body responsible for developing and administering the DCTF. SB1690 mandates that the DCTF be composed of 25 members including 17 members representing commercial fishing interests, 2 members representing sport fishing interests, 2 members representing crab processing interests, one member representing commercial passenger fishing vessel interests, 2 members representing nongovernmental organization interests, one member representing Sea Grant, and two members representing the Department. The OPC held an election with commercial Dungeness crab fishing permit holders for the commercial fishing seats, as designated in SB1690, and appointed the remaining members to the DCTF (see Appendices 3, 4, and 5). The OPC contracted a neutral consultant team to facilitate and mediate DCTF meetings.

## **OBJECTIVES**

The goal of the DCTF was to satisfy the mandates of SB1690. The DCTF discussed management goals and objectives but did not take a formal vote to recommend or prioritize these objectives.

## **DCTF PROCESS AND PROCEDURES**

The DCTF convened meetings from May 2009 through October 2009 and voted on the recommendations included in this report on October 22, 2009. Due to the state budget constraints, the group was only able to convene four meetings. SB1690 required that "a recommendation shall be forwarded to the Joint Committee on Fisheries and Aquaculture, the department, and the commission upon an affirmative vote of at least two-

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condition and quality are inferred.

<sup>8</sup> Fair start provisions require fishermen to commit to fishing only in a specific location for a period of time prior to being able to leave that region to go fish another area. For example, in Oregon, in the case of a delayed opening in Oregon or California, fishermen with permits in both states must commit to fishing in one zone only. If fishermen are committed to the zone that opens on December 1, they have to wait at least 30 days before they are allowed to fish in the zone that was delayed.

thirds of the task force members.” A DCTF charter was voted on and approved by the group in September 2009 to establish ground rules and voting procedures for the group (see Appendix 6). In the DCTF charter, the group agreed that they would forward recommendations that had been approved by 2/3 of the entire body (18 members), and they would also forward recommendations that had been approved by 2/3 of the members that were not labeled as “ex officio” (15 members). The voting protocol established that there would be an initial vote of all members except those labeled as “ex officio.” If 2/3 or 15 of these members approve of the recommendation, then a nonbinding poll was given to ascertain the opinion of those members labeled as “ex officio.” The following voting protocol, described in the DCTF Charter, was used to conduct straw polls and final voting:

- **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.

Both thumbs up and thumbs sideways votes were combined to determine whether a 2/3 majority was reached.

#### **FOLLOW UP REPORT AND CONTINUING WORK OF THE DCTF**

Because the DCTF was not able to come to agreement on all issues prior to this report, the DCTF plans to meet again in February 2010. At this meeting they will further refine their ideas and vote on outstanding issues (as outlined in SB1690): criteria for a pot limit program for district 10; future restrictions on permits according to SB1690; refining sport regulations; improving collection of essential fishery information (biological and fishery data); the need for a permanent advisory committee; and potentially other outstanding topics. A follow up report will be submitted to the Legislature, the Commission, and the Department on March 31, 2010 to further refine recommendations from the DCTF provided below.

#### **DCTF RECOMMENDATIONS**

The recommendations provided below represent the agreements of the DCTF members; however, they are not the *verbatim* language from when the votes were taken. Because of the *ad hoc* nature of the conversations at the DCTF meetings, some of the language used during voting was not wholly accurate and/or insufficiently represented the actual intent of DCTF. The actual language from the meeting is included Appendix 7 for reference. Explanatory notes are provided below recommendations, when necessary.

**Recommendation 1-** Work through the Tri-state committee and California state decision-makers to move the fair start line, which is currently at the northern edge of District 10, south to California/Mexico Border.

VOTE:

*Vote of all DCTF members excluding the ex officio members:*

Thumbs up	Thumbs Sideways	Thumbs Down	Absent
17	3	1	1

*Vote of the ex officio members:*

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

NOTES:

The DCTF would like to work with the Tri-State Dungeness crab committee to assess the positive and/or negative implications of including district 10 in the Tri-State Agreement (e.g., If pre-season crab quality testing is required, district 10 may also be subject to delays in the season opener based on crab quality; District 10 may be offered further regional protections not currently experienced during the regular season). If it is determined to be a positive change, then the DCTF will work with the Tri-State Dungeness crab committee to amend Oregon and Washington laws to include district 10 in the regular season fair start clause (i.e., even when the season is not delayed).

**Recommendation 2-** The DCTF proposes that new crab legislation be introduced in early 2010 that would serve as placeholder language to implement a trial, “pay to play” (paid for by participants of the district 10 fishery) pot limit program in district 10. The pot limit program should be designed as a pilot: active for three years, adaptively managed, and reviewed to inform future management measures.

However, the legislature must receive additional clarifying recommendations from the DCTF by March 31, 2010 or the bill author shall not pursue the legislation to implement the trial pot limit in district 10. These clarifying recommendations will include, but may not be limited to, the following issues:

- The cost for a pot limit program that will be assessed on the fishery participants who choose to fish district 10 (e.g., the price per pot tag)<sup>9</sup>
- Pot limit criteria and structure (e.g., number of pots per boat)

VOTE:

*Vote of all DCTF members excluding the ex officio members:*

Thumbs up	Thumbs Sideways	Thumbs Down	Absent
18	1	2	1

*Vote of the ex officio members:*

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

NOTES:

The DCTF agrees that they would like to recommend a pilot pot limit program in district 10. However, the group has not yet agreed on how a pot limit should be structured. The DCTF would also like more information to assess the cost and ensure the ability to manage and enforce the pilot program effectively. As such, the DCTF would like to recommend that a spot bill be introduced to the California Legislature regarding the pot limit program. The DCTF will meet in February 2010 to discuss and vote on the clarifying recommendations for the pot limit program. However, if the legislature does not receive further guidance from the DCTF by March 31, 2010, the DCTF would like for this recommendation to become void.

<sup>9</sup> This cost will be estimated from an analysis and estimate conducted by the OPC and the Department and consistent with Oregon and Washington programs (including administration and enforcement).

**Recommendation 3-** Ask the California Attorney General to read and assess the Magnuson-Stevens Fishery Conservation and Management Act (especially section 302) and determine whether the state of California can determine the rights of a California permit holder based solely on California landings without taking into consideration landings generated in other states using another states' permit. These rights may include, but are not limited to, limited entry criteria and tier assignments under a pot limit program.

VOTE:

*Vote of all DCTF members excluding the ex officio members:*

Thumbs up	Thumbs Sideways	Thumbs Down	Absent
20	0	0	2

*Vote of the ex officio members:*

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

NOTES:

There was a question among the DCTF members as to whether California must consider landings made by fishermen fishing in other states, when those landings are made under a separate permit, when establishing CA management criteria (i.e., if a California permit holder also fishes in Oregon with an Oregon permit, must the Oregon landing also be included when calculating that fisherman's cumulative landings for his/her California permit). The DCTF chose to not vote to support any restrictions on latent permits or details of a pot limit program without satisfying this inquiry. Please note that the Magnuson-Stevens Fishery Conservation and Management Act sections mentioned in the original recommendation were incorrect. The intent was to review Magnuson-Stevens Fishery Conservation and Management Act section 302 which pertains to the management of Dungeness crab, not 112 and 203 as originally stated.

**Recommendation 4-** The DCTF requests that the legislature make permanent the language of SB1690 related to limited entry:

“Eligibility to take crab in California waters and offshore for commercial purposes may be subject to restrictions, including, but not limited to, restrictions on the number of traps utilized by that person, if either of the following occurs:

- (1) A person holds a Dungeness crab permit with landings of less than 5,000 pounds between November 15, 2003, and July 15, 2008, inclusive.
- (2) A person has purchased a Dungeness crab permit on or after July 15, 2008, from a permit holder who landed less than 5,000 pounds between November 15, 2003, and July 15, 2008, inclusive.”<sup>10</sup>

In addition, by March 31, 2010, the DCTF will forward additional recommendations related to potential limitations for permits that fall within these criteria.

VOTE:

*Vote of all DCTF members excluding the ex officio members:*

Thumbs up	Thumbs Sideways	Thumbs Down	Absent
18	0	2	2

*Vote of the ex officio members:*

<sup>10</sup> Fish and Game Code Section 8276.4 (h)

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

NOTES:

Currently the control language in SB1690 (above) remains in effect only until January 1, 2011, and as of that date will be repealed unless a later enacted statute deletes or extends that date. The DCTF recommendation is to remove the sunset date from this statute by amending the Fish and Game code section 8276.4. At the February 2010 meeting, the DTCF may vote on additional recommendations regarding restrictions on permits that fall within this definition. If the DCTF votes on additional recommendations, these will be provided in the report submitted by March 31, 2010. Yet, should no additional recommendations be provided, recommendation 4 should remain in effect as there is not a *requirement* that follow up to this recommendation take place.