



**~California Dungeness Crab Task Force~**

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

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# **Record of the Proceedings: California Dungeness Crab Task Force**

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## **Section 1- Purpose**

The purpose of this document is to provide a historical record of the proceedings and work of California Dungeness crab task force (DCTF) as well as the work of the California Ocean Protection Council (OPC) staff and contracted facilitation team, (collectively referred to throughout this document as the DCTF project team), to inform future endeavors in the Dungeness crab fishery. This work was completed pursuant to Senate Bill 1690 (2008) (Appendix 1). SB1690 mandated that the DCTF submit a report to the Joint Committee on Fisheries and Aquaculture (Legislature), the California Department of Fish and Game (DFG), and the Fish and Game Commission (Commission) by January 15, 2010 (Appendix 2). In addition to the mandated January 15, 2010 report, the DCTF submitted a second report on March 31, 2010 to provide further clarification and refine the recommendations in the first report (Appendix 3). Since the two reports are not inclusive of all of the DCTF's discussions and progress, this document has been generated to serve as a comprehensive report, documenting past DCTF activities, discussions, and other information generated from the DCTF process. This Record of Proceedings is a resource that will inform future efforts in the Dungeness crab fishery including efforts by potential future advisory bodies and support staff.

## **Section 2 – DCTF Purpose and Process**

### ***2.1 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 reduction of the salmon fishery over the last few years, Dungeness crab is one of the most profitable and productive fisheries in California.<sup>2,3</sup> As a result, collective demand of fishermen and consumers is slowly shifting toward Dungeness crab.<sup>4</sup> Consequently, there is desire by many stakeholders and decision-makers to: 1) ensure the long-term health of the Dungeness crab resource; 2) make certain that it may be fished in perpetuity; and 3) improve the economic health of the fishing communities who rely on the valuable resource.

Approximately 80% of the Dungeness crab catch is landed in the first six weeks of the season, starting in the late fall and tapering off in the winter. Data shows the high volume of landings at the beginning of the season can “glut” the market which generally decreases the early season value of the product. This early season glut also increases

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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) Last visited June 8, 2010.

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

<sup>4</sup> Discussions with DCTF Members and fishermen

individual fishermen's pressure to buy more crab pots in order to increase an individual's potential catch. This is often referred to as the "arms race." Fishermen are fishing increasingly larger numbers of pots each season in an effort to land as much of the limited number of crabs available. Moreover, the issue of gear increase is exacerbated by the growing threat of latent permit<sup>5</sup> activation.

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 generally vary by vessel size and homeport location<sup>6</sup>, making it challenging for fishery participants to reach consensus viewpoints and agreements.

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

In the absence of a fishery management plan, the Pacific Fishery Management Council, one of the federal government's regional council established under the Magnuson-Stevens Act, has given California, Oregon, and Washington primary responsibility for management of the Dungeness crab fishery within their state's borders and into federal waters.<sup>7</sup> In California, management authority of Dungeness crab is maintained by the California Legislature. Since 2004, legislators have introduced bills that could change Dungeness crab management. All were vetoed for a wide range of reasons until the introduction of SB1690 (see section 2.4).

The California Dungeness crab commercial fishery is currently managed 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, and allows 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 DFG if crabs are soft-shelled or low quality. Additionally, in 1995 a limited entry program<sup>8</sup> was implemented that served to limit the total number of permits in the fishery. Currently there are fewer than 600 permits: approximately 450 active and 140 latent.

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<sup>5</sup> See Section 3.1 for a definition of "latent permit"

<sup>6</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. Also see Appendix 12D

<sup>7</sup> Magnuson-Stevens Fishery Conservation and Management Act Section 302

<sup>8</sup> A limited entry program is a management tool that restricts the number of permits in a fishery.

In contrast to the commercial fishery, the California Dungeness crab sport fishery is managed by the Commission.<sup>9</sup> 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.

### ***2.3 West Coast Management of the Fishery***

In 1996, the Dungeness crab Tri-State Process was established through a Memorandum of Understanding (MOU) between Pacific States Marine Fisheries Commission (PSFMC) 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 testing<sup>10</sup> from the Washington-British Columbia border to Point Arena. 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>11</sup>

The Dungeness crab fisheries in Washington and Oregon are also high value fisheries. 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-style fishing that creates an early season glut. 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 pot limit system in 1999. The Oregon Department of Fish and Wildlife (ODFW) followed suit in 2006 by establishing a pot limit program modeled after Washington's system. While these management efforts capped the amount of gear in the water, there is no evidence that the pot programs were successful in reducing the derby-style fishing. Consequently, as presented by WDFW and ODFW staff at DCTF meetings, these efforts have been met with mixed reviews by the DCTF and other members of the Dungeness crab industry.

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<sup>9</sup> In both the commercial and recreational Dungeness crab fisheries, DFG is the entity responsible for enforcing and administering regulations adopted by the Legislature (commercial fishery) and the Commission (recreational fishery).

<sup>10</sup> The crab quality testing predicts the meat recovery rate by the December 1 season opener, from which the shell condition and quality are inferred.

<sup>11</sup> Fair start provisions require fishermen to commit to fishing only in a specific location for a specified period of time prior to being able to leave that region to go fish another area. For example, in Oregon, in case of a delay opening in either zone, fishermen 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.

## ***2.4 Establishment and Purpose of the DCTF***

To date, California has had little success in passing legislation to update and streamline the management of the Dungeness crab fishery. In response, SB 1690 was created to assemble a task force comprised of various stakeholders to evaluate and suggest changes to the current management approaches that may be more effective in regulating the Dungeness crab fishery.

SB 1690 was signed into law by Governor Schwarzenegger in 2008 (Appendix 1) and designated the OPC to develop and administer a DCTF. The law required the task force to comprise the following stakeholders: commercial and recreational fishermen, crab processors, commercial passenger fishing vessels, non-governmental organizations (NGOs), as well as representatives from California Sea Grant and the DFG. The OPC held an election by commercial Dungeness crab fishing permitholders for the commercial fishing seats, as designated in SB1690, and appointed the remaining members to the DCTF (see Appendices 5, 6, and 7). The OPC contracted a neutral consultant team, California State University Sacramento, Center for Collaborative Policy and T.C. Hoffmann and Associates, LLC (the facilitation team), to facilitate and mediate the first 5 DCTF meetings. All work by the consultant team was performed in close coordination with OPC staff.

SB1690 directed the DCTF to review and evaluate Dungeness crab fishery management with the objective of making recommendations related to the fishery's management to the Legislature, DFG, and the Commission by January 15, 2010.

## ***2.5 Description of the DCTF Process***

In addition to holding five public<sup>12</sup> meetings in various regions along the California coast between May 2009 and February 2010, the facilitation team employed a three-step approach to help the DCTF meet the requirements of SB 1690. First, the facilitation team conducted interviews with DCTF members to gain insight on critical issues facing the Dungeness crab fishery. This step resulted in a "Situational Analysis" report (see Section 2.3.1 and Appendices 8 and 9). Second, fact finding was conducted with members and other experts to identify fishery data needs, develop informational presentations and handouts, and inform recommendations and adaptive approaches to future management of the fishery. Third, collaborative, interest-based negotiation was used to identify shared meaning and areas of agreement among DCTF members, and to generate consensus-based recommendations for the Legislature, DFG, and the Commission.

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<sup>12</sup> All meetings were held in compliance with the Bagley-Keene Open Meeting Act (California Government Code §§ 11120-11132.)



### 2.5.1 Conducting the Situational Analysis

The facilitation team conducted phone interviews with DCTF members in April 2009 to identify issues of concern, areas of disagreement, opportunities for collaboration, and to collect input about the most effective methods to manage the DCTF. The key benefit of the Situational Analysis was that it offered members a venue to express their perspectives in a confidential format. This allowed the facilitation team to better understand member perspectives on challenges facing the fishery, and opportunities to enhance collaboration and member “ownership” of the DCTF process (Appendix 8). The results of the Situational Analysis were presented at meeting 1 of the DCTF (Appendices 9 and 12).

### 2.5.2 Establishing and Using the DCTF Charter

To ensure balance, equity, and a structured approach to DCTF meetings and decision-making, the facilitation team assisted the DCTF in establishing a “Charter” (Appendix 10). The Charter defined the “rules of engagement” including member roles, accountabilities, and decision-making protocols. The Charter was consistent with the requirements of SB 1690 but expanded on those requirements to allow the DCTF to tailor their work and improve DCTF Member working conditions. The Charter was discussed in meetings 1 and 2 and was ratified by a simple majority vote of the DCTF at meeting 2 on September 8, 2009.

### 2.5.3 Overview of DCTF Meetings

The DCTF held five multi-day meetings from May 2009 through February 2010 in various locations along the California Coast (Table 1). All meetings, and DCTF business, were held in compliance with the Bagley-Keene Open Meetings Act of 2004 (California Government Code §§ 11120-11132).<sup>13</sup>

**Table 1.**

<b>Meeting Date</b>	<b>Location</b>	<b>Meeting Summary</b>	<b>Informational Handouts</b>
May 26-27, 2009	Eureka, CA	Appendix 12	Appendix 12A-12F
September 8-10, 2009	San Francisco, CA	Appendix 13	Appendix 13A-13D
October 7-8, 2009	Ukiah, CA	Appendix 14	Appendix 14A-14G
October 21-23, 2009	Ukiah, CA	Appendix 15	Appendix 15A-15F
February 17-18, 2009	Ukiah, CA	Appendix 16	Appendix 16A-16C

<sup>13</sup> A copy of the Bagley-Keene Open Meetings Act of 2004 was provided to all DCTF members at meeting 1 and posted on the DCTF webpage for reference.

June 28, 2010	Ukiah, CA	Appendix 17	
August 9, 2010	Ukiah, CA	Appendix 18	

The DCTF project team utilized various mechanisms during meetings to enhance effectiveness and efficiency of DCTF discussions, including group activities, workgroups, caucuses, informational presentations, guest speakers, informational documents, and surveys to bring back to DCTF member’s constituents between meetings to assess their levels of support for issues discussed at DCTF meetings. These facilitation strategies were used to: 1) highlight the willingness of members to empathize and compromise with the interests of others; 2) help members engage in collaborative exercises to create shared meaning; 3) provide context and information that support and strengthen DCTF discussions; 4) enhance understanding of policy, regulations, and inform other informational needs of the DCTF.

Throughout the process, DCTF members requested data (e.g. landings data and permit information, lessons learned from the Oregon and Washington Dungeness crab fisheries, etc) to help inform their decisions. OPC staff coordinated with DFG staff and others to present the requested data (when available) before and during DCTF meetings.

#### **2.5.4 Sport Fishery Workgroup**

During meeting 2, a majority of DCTF members agreed to convene a separate workgroup between DCTF meetings to address sport fishery issues —due to the scale and complexity of commercial issues to be discussed. Formation of this workgroup allowed sport and other members the opportunity to: 1) discuss and refine sport fishery problem statements; 2) collaborate to develop sport fishery objectives; and 3) brainstorm and discuss management tools and approaches to achieve objectives (see Appendix 11).

#### **2.5.5 Member Outreach Between Meetings**

In addition to providing summaries of each meeting, the project team prepared informational materials and surveys for members to bring back to their constituents. The surveys were created to help members determine their constituents’ viewpoints on key topics being discussed by the DCTF. All materials were made available to the public and members on the DCTF webpage (<http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>)<sup>14</sup> and/or the DCTF email list-serve. The facilitation team also conducted extensive phone and in person discussions with individual members between meetings to determine

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<sup>14</sup> Link effective as of June 17, 2010

potential topics to be included on the agenda and discussed at subsequent meetings. The following list highlights some of the key issues discussed during member outreach and at meetings (these are discussed in further detail in section 3):<sup>15</sup>

#### *Continuing the DCTF*

Shortly after the first DCTF meeting in May 2009, economic conditions in the State of California required the facilitation team to stop work on the DCTF until July 2009. Due to this setback, the DCTF timeline and associated activities were constrained. The facilitation team conducted phone outreach to DCTF members, beginning in August 2009, to gauge the level of commitment for continuation of DCTF activities. During these calls, the facilitation team explained the current circumstances facing the DCTF and tested member support for a proposed strategy to meet the mandate of SB 1690 with fewer, but longer meetings and a compressed timeline. Notwithstanding frustrations about the delay and loss of time and opportunity expressed by several members, the full DCTF determined the best course of action was to continue collaborative efforts to meet the requirements of SB 1690.

#### *High-tier versus low-tier<sup>16</sup>*

Through continued Member outreach between meetings, the facilitation team determined limited areas of agreement on the management measures that had been presented and prioritized by DCTF members during the meetings. Historical division of viewpoints by low-tier versus high-tier fishermen, as well as regional differences, remained throughout the course of the DCTF, particularly with regard to the appropriateness of a tiered versus one-size-fits-all pot limit program. In general, high-tier fishermen preferred a tiered pot limit as they felt it maintained equity for fishermen that have worked hard and have invested significant capital to build their business and increase boat size. Low-tier fishermen generally felt that a tiered pot limit would cap their ability to grow and would only reward fishermen that have already maximized their potential, sometimes to the detriment of others. Differing viewpoints held by low- and high-tier fishermen created a clear division in some ports represented on the DCTF and threatened to make consensus recommendations difficult.

#### *Potential costs of a pilot pot program*

Members routinely requested information about costs associated with a potential pot limit program, and information about who would incur such costs. Fishermen asked what the “return on investment” would be if they have to pay for a pot limit program. Several fishermen requested more specific cost and implementation information.

#### *Latent permits*

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<sup>15</sup> Note: Many of the issues listed were either resolved or further discussed prior to the release of this report and therefore, may no longer be reflective of the current sentiments of the DCTF.

<sup>16</sup> High tier and low tier designations were defined in SB1690 (Appendix 1)

Another issue was how to define and manage latent permits and whether these permits pose a threat to the fishery and fishermen. Most fishermen could not support heavy restrictions on latent permits, feeling that would be unfair. Some fishermen did express a willingness to limit a latent permit's pot capacity to some amount with which the permit holder could "make a living" but still be limited to a maximum pot number. The range of views about latent permit restrictions demonstrated the dilemma faced by members wanting to minimize potential negative impacts of latent permit activation while simultaneously ensuring opportunities for prospective fishermen to enter the fishery.

#### *Pilot pot program*

Through the facilitation team's continued discussions with DCTF members during DCTF meetings, a pot limit program emerged as a recommendation that could potentially be supported by the DCTF. Initially, there was general support within the DCTF for a trial, "one-size-fits-all"<sup>17</sup> pot limit program in district 10, paid for by fishermen operating in that district. However, there was little agreement on the structure of the program, including the number of pots, and whether or not the program should be permanent or temporary. In addition, some members eventually expressed frustration over what appeared to be preferential treatment of particular regions of the fishery. At meeting 5, the DCTF generally agreed by two-thirds majority vote to abandon a district 10 pot limit in support of a statewide pot limit program.

### **2.5.6 Proposals**

The project team encouraged the DCTF and members of the public to submit management proposals, alternatives, and written comments to the project team prior to the meetings. All of the proposals were created independent of the project team and were made public on the DCTF webpage so that members were prepared to discuss them at DCTF meetings (Appendices 17A-17F and Appendices 18A-18D). The project team requested that members discuss each proposal with their constituents in order to be prepared to make decisions on their behalf at the meeting.

### **2.5.7 Final Reports**

SB 1690 mandated that the DCTF provide a final report to the Legislature, DFG, and the Commission by January 15, 2010 with recommendations for the Dungeness crab fishery's management. The DCTF project team drafted the report and then allowed the DCTF to review the draft prior to its submission. The project team worked with members to incorporate their suggested edits, where appropriate, and ensured that the report accurately reflected their sentiments.

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<sup>17</sup> "One-size-fits-all" refers to a pot limit program in which all participants are allocated the same number of pots regardless of their landings history.

After incorporating member edits, OPC staff sent the report to the Legislature, DFG, and the Commission on the DCTF’s behalf. Using the same methods as the January report, a second, follow-up report was submitted on March 31, 2010.

**Section 3 –Summary of Issues Discussed to Date by DCTF**

This section highlights major topic areas but does not provide a comprehensive list of all issues discussed by the DCTF. For more information about DCTF discussions and decisions, please see the meeting summaries (Appendices 12-16) as well as the January 15, 2010 and the March 31, 2010 reports (Appendices 2 and 3, respectively).

<b>Topic</b>	<b>Section(s)</b>
Latent Permits	3.1.1 through 3.1.3
Pot Limit	3.2.1 through 3.2.3
Fleet Migration	3.3.1 through 3.3.2
Profitability	3.4
Data	3.5
Future Considerations and Management Tools	3.6.1 through 3.6.4
Specific to the Sport Fishery	3.7
Senate Bill 1093	3.8

**3.1 Latent Permits**

**3.1.1 Background Information**

DCTF members have expressed concern about the high number of inactive or “latent” permits in the commercial Dungeness crab fishery.<sup>18</sup> With the reduction of the salmon fishery, there is increased potential for the approximately 141 latent California Dungeness crab permits to become active thereby increasing the pressure on crab stocks, increasing the “race for crabs” and resulting in fewer crabs caught per vessel. Because latent permits represent unexploited fishing potential, stakeholders have raised questions about the economic and biological sustainability of the fishery should latent permits in the Dungeness crab fishery be activated. Additionally, absent some form of gear management program, as latent permits become activated, more gear will be deployed every season. However, the data (biological and fishery information) available to inform management on this and other issues is significantly lacking.

Since there are many different ways to define inactive or “latent” permits, there was general agreement among the DCTF that before the group would decide whether or not to recommend potential restrictions on latent permits, the idea of

<sup>18</sup> T.C. Hoffmann and Associates, LLC. 2009. “The Situational Analysis.” (Appendices 8 and 9)

“latent” permits needed to be clearly defined. In their January 15, 2010 report to the Legislature, DFG, and the Commission, the DCTF provided recommendations to clarify the issue of latent permits by: 1) making the language of SB1690, specifically section 8276.4.h, permanent; and 2) providing further clarification on what landings should be used to define latency.

- 1) The DCTF requested that the following language pertaining to potential restrictions on permits (Fish and Game Code § 8276.4.h) be made permanent:

*“(h) 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.”*

- 2) The DCTF requested the California Attorney General’s (AG) opinion to clarify whether California must consider landings made by fishermen fishing in other states, when those landings are made under a separate permit, when establishing California management criteria (i.e., if a California permit holder also fishes in Oregon with an Oregon permit, must the Oregon landings also be included when calculating that fisherman’s cumulative landings for his/her California permit). At the time this report was released, the results of this recommendation are still pending.

Using the definition of latent permits, as defined by the DCTF in their January 15, 2010 report to the legislature, DFG, and the Commission<sup>19</sup>, 141 latent permits fell under the criteria for latency as outlined above (where 38 permits had less than 5,000lbs and 103 were inactive with zero landings) and 447 permits were active in the California Dungeness crab fishery. This calculation takes into account four criteria: 1) a control date (November 2003- July 2008); 2) a cumulative landing requirement of 5,000lbs during the control date; 3) a transfer of landings history with a permit transfer; and 4) only landings made in California under a California permit.

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<sup>19</sup> “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.”

At meeting 7, the DCTF voted by a 2/3 majority to recommend that a permit's latency is determined by landings associated with a permit rather than landings associated with an individual or "L" number.

Once the group had defined latency, they discussed potential restrictions on latent permits. At meeting 5, the DCTF agreed by a 2/3 majority that the elimination of latent permits was not an objective of the DCTF. Instead, the DCTF agreed that management measures should be enacted to reduce the threat of latent permit activation while still allowing new entrants into the fishery.<sup>20</sup> The DCTF identified pot limits as the desired mechanism to achieve these objectives (see section 3.2)

### **3.1.2 Areas of Debate**

Following meeting 7, there were still a number of outstanding issues that the DCTF discussed but could not reach agreement on. At each meeting, the DCTF identified various outstanding issues/areas of debate pertaining to latent permits. The following is a list of those issues that remain outstanding:

- In addition to landings requirements, should the latency of a permit also be based on its fishing potential? (i.e. Since larger vessels have a higher fishing potential should there be greater restrictions imposed on larger vessels? Or should there be fewer since larger vessels cost more money to operate and maintain?)
- Should there be a requirement that all permits have a single ownership or can they be owned by partnerships and/or corporations? How could this legally be achieved?
- Should permits (latent or not) with no physical vessel attached to them be retired?
- Should there be a minimum landing requirement to retain the latent permit over time? If so, what should that be?
- The DCTF also discussed transferability and permit stacking:
  - Should latent permits be transferable or should the group recommend restrictions on transferability?<sup>21</sup>
  - If a pot limit or quota system were implemented, should permit stacking be restricted to control reactivation of latent permits?

Generally, the DCTF did not support any form of buyback program (especially industry funded) to ameliorate the fishery's overcapacity and latent permit issues.

While the southern ports did not generally support permit stacking, the northern ports were divided on the issue. Since commercial landings are generally lower south of Point Arena, southern ports expressed concern that restricting or eliminating latent permits based on landing requirements may disproportionately impact southern fishermen (those fishermen south of Point Arena).

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<sup>20</sup> See Objective C in the DCTF's March 31, 2010 report (Appendix 3).

<sup>21</sup> As of the drafting of the report, there are currently no restrictions on the transferability of latent permits.

### 3.1.3 Future Discussion Topics

In their March 31, 2010 report, the DCTF forwarded a recommendation that restrictions be placed on latent permits by allocating them fewer pots if a pot limit program was implemented (see section 3.2). However, the group believes that more work needs to be done to ensure that mechanisms are built into the pot limit program to allow new entrants into the fishery and allow them to build their business. (Note: the DCTF has identified adaptive management of the pot limit program as a means to assess the best way to accomplish this goal.)

## 3.2 Pot Limit Program

### 3.2.1 Background Information

Increasing competition in the commercial Dungeness crab fishery has resulted in more pressure on fishermen to buy more crab pots in order to increase their potential catch. Fishermen are reacting by purchasing more and more pots—which has been termed the “arms race”—in an effort to land as much of the limited number of crabs available each season as possible.<sup>22</sup> Some fishermen have expressed concern that this situation will only grow worse as more latent permits become active and fishermen fish their permits harder.

While the actual numbers of Dungeness crab pots deployed in California every season are unknown, Dewees et al. estimated that there were approximately 171,090 pots fished by 616 permit holders in California in December 2000. In comparison, during the same time period, there were approximately 150,000 pots fished by 430 permit holders in Oregon and approximately 65,000 pots fished by 200 permit holders in Washington.<sup>23</sup> Many fishermen believe that there are far too many pots in the water as a result of the “arms race.”<sup>24</sup> In order to remedy this problem, various DCTF members suggested including pot limits into the California Dungeness crab management regime. Therefore, at meeting 5, the DCTF recommended both capping and reducing the total number of pots in the water as a fishery management objective.

In their January 15, 2010 report, the DCTF recommended a three year pilot pot program in district 10 that would be funded by those fishing in district 10. As mentioned in section 2.5.5, the DCTF decided to expand the geographic range of

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<sup>22</sup> FAO. 2002. “Report of the Expert Consultation on Catalysing the Transition Away from Overcapacity in Marine Capture Fisheries- Rome, 15-18 October 2002.”

<http://www.fao.org/docrep/005/y8169e/y8169e0j.htm>. Last visited June 8, 2010.

<sup>23</sup> Dewees C.M., Sortais K., Krachey M.J., Hackett S.C., and Hankin D.G.. 2004. “Racing for crabs. . . Costs and management options evaluated in the Dungeness crab fishery.” *California Agriculture*. Vol 58(4). Pp. 186-193.

<sup>24</sup> Harris, R. “Fishermen Make Mad Dash for Dungeness Crab.” NPR.

<http://www.npr.org/templates/story/story.php?storyId=98788991> Last visited June 8, 2010.



the pilot pot limit program and consider a statewide program. In the March 31, 2010 report, the DCTF recommended a 2-year pilot, statewide, tiered pot limit program (Appendix 3). Recommendation 14 is as follows:

*The DCTF proposes that new crab legislation be introduced in early 2010 for a pilot, statewide, tiered pot limit program. The pot limit program shall be designed as follows:*

- *Permits/vessels (not the “L” number) will be ranked by their California landings between November 15, 2003 and July 15, 2008, inclusive so that the top producing 55 boats will receive 500 pots, the next 55 boats will receive 450 pots, and so on. If a permit was transferred during the control date, the California landings history attached to the permit/vessel prior to the transfer will follow the permit through the transfer. The breakdown of the pot distribution is described below:*

*In tier 1, 55 boats will be allocated 500 pots*

*In tier 2, 55 boats will be allocated 450 pots*

*In tier 3, 55 boats will be allocated 400 pots*

*In tier 4, 55 boats will be allocated 350 pots*

*In tier 5, 55 boats will be allocated 300 pots*

*In tier 6, 172 boats will be allocated 250 pots*

*In tier 7, 141 latent permits\* will be allocated 175 pots*

*The number of pots fished will not exceed 177,675 pots*

*\*Note: The DCTF would like to use the recommendation 4 in the January 15, 2010 report to define the criteria for a latent permit.*

Additionally, in the March 31, 2010 report, the DCTF also recommended that the program be evaluated and possibly adaptively managed after two years, funded by a pot tag program, and that hardship/appeal procedures be established to address grievances. These recommendations were later refined in meetings 6 and 7 where the DCTF recommended that the program be instituted for three years (instead of two), be funded by a \$2 per pot per year tag (see Appendix 23), and 5-year cumulative landings made under a California permit will be used to determine individual pot allocations. The DCTF also refined hardship/appeal procedures and recommended that appeals be heard and decided by a judge. Many of these recommendations were adopted by the legislature in Senate Bill 1093 (see Section 3.8 and Appendix 23).

### **3.2.2 Areas of Debate**

Following meeting 7, there were still a number of outstanding issues that the DCTF had been discussed but that the group could not reach agreement on. At each meeting, the DCTF identified various outstanding issues/areas of debate pertaining to pot limits. The following is a list of those issues that remain outstanding:

- What should be the total number of pots allowed for the entire fishery?
- What types of penalties should there be for those that violate the program? (i.e. fines, revoke permit)
- Could the program be effectively enforced?
- How will the effectiveness of the program be measured? (i.e. the structure of an adaptive management and monitoring and evaluation program)
- Will pot allocations be readjusted at a later date to adaptively manage the program?

While the DCTF voted and approved the tiered pot limit program by a 2/3 majority, the historical divide between north and south and small producers and large producers persisted. Southern ports were generally not in support of a pot program without some form of fair start clause. However, at meeting 5, a formal vote was held on the issue of fair start and it did not receive approval by a 2/3 majority and, therefore, was not included as a formal recommendation from the DCTF.

### **3.2.3 Future Discussion Topics**

During meeting 7 and in subsequent conversations with DCTF members, DFG, and members of the public by the project team, the following list of outstanding issues were identified as topics that should be resolved prior to the implementation of the pot limit program:

- How will adaptive management procedures be developed and what would they look like?
- If the California AG rules that tri-state landings must be incorporated into a pot limit program, then what will that look like?
- How will the management of fishery data be improved so that managers can measure and assess the results of the pot limit program in a timely fashion?
- Should a permanent Dungeness crab permit tracking number be established to ease DFG's ability to enforce the program?

Lastly, the project team drafted an adaptive management framework document to share with the DCTF when they were ready to discuss adaptive management, monitoring and evaluation (Appendix 22). Unfortunately, due to unforeseen and extenuating circumstances it was impossible to share and discuss this draft document with the DCTF. However, it is included as an appendix to this document and can potentially be used as a resource for future work at pot limit programs in this fishery.

### **3.3 Fleet Migration**

#### **3.3.1 Background Information**

Throughout the fishing 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. Additionally, absent a delay in the northern opener, nonresident fishermen are allowed to fish district 10 without a fair start which, some fishermen argue, further increases the early season effort shift in district 10.<sup>25</sup> Following the December 1<sup>st</sup> northern opener, the effort shift moves to the northern regions and creates pressure on the northern region of the fishery until catch tapers off in the winter.

Crescent City is unique in that it gets pressure from nonresident vessels throughout the season. Some Oregon resident fishermen also hold permits in California and vice versa. Since Oregon has a pot limit program, these boats have been known to put out the maximum allowable pots in Oregon waters and then put their remaining pots across in California.<sup>26</sup> This increases the amount of gear in the Crescent City region and increases the competition with California resident boats.

Many DCTF members have expressed concern that the implementation of the Washington buy-back program could also encourage fleet migration to California.

Many DCTF members have expressed concern that migration to California from out-of-state vessels will also increase if the Oregon fishery pushes back its start date to December 15th.

#### **3.3.2 Future Discussion Topics**

In the January 15, 2010 report, the DCTF recommended the investigating the potential outcomes of establishing a tri-state fair start clause for out-of-state vessels to limit nonresident fishermen from fishing in district 10 during the 2 week opener. The DCTF recommended that California decision-makers work through the Tri-State Dungeness crab committee to evaluate amending Oregon and Washington laws to include district 10 in the regular season fair start clause (without changing the early opener in district 10). The implications of moving the fair start line south of Point Arena have not yet been fully elaborated and, therefore, are not completely understood. The group would like to further investigate:

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<sup>26</sup> This was mentioned regularly in discussions at DCTF meetings

- 1) If the line is moved from Point Arena to the California-Mexico border, will pre-season crab quality testing be required?
- 2) What would the cost be to district 10 for pre-season crab quality testing?
- 3) Would district 10 also be subject to delays in the season opener based on crab quality?
- 4) Would district 10 be offered further regional protections not currently experienced during the regular season?
- 5) Would this allow for any protections for Northern districts from nonresident boats?

The DCTF also discussed the need to create incentives for Oregon and Washington to move the fair start line south, but did not agree on what those incentives could be. Additionally, southern ports generally believed that crab quality testing was not necessary south of Point Arena and would only support moving the fair start line if district 10 was not subject to preseason crab quality testing.

In order to address fleet migration within California by resident fishermen, the DCTF representatives from southern ports proposed a fair-start clause. As noted above, a formal vote held at meeting 5 showed that a fair start clause lacked support from 2/3 of the DCTF. Therefore, it was not included as a recommended fishery management option in the March 31, 2010 report. However, conversations between the project team and DCTF members and members of the public following meeting 7 revealed that there may be interest in revisiting the idea of a fair start program in the future. However, various northern port representatives believed that a pot limit program would alleviate some of the pressure in district 10 during the early season opener, which would make a fair start provision unnecessary.

### ***3.4 Increase Profitability***

Various DCTF members explained that increasing profitability and the economic sustainability of the fishery was a high priority for the group. Therefore, the DCTF brainstormed ways to increase profitability. Members mentioned, but did not agree upon, the following mechanisms:

- Crab caught in California should be landed in California.
- Mechanisms should be established to increase communication before the season so that fishermen can get a better price during pre-season price negotiations. This mechanism would have to ensure that no anti-trust laws were broken. The mechanism should ultimately provide a stable price for crab thereby decreasing the fishing derby and increasing the safety of the fleet. Additionally, this mechanism could have positive marketing implications.
- Increase the national market for Dungeness crab. Dungeness crab is currently in competition with snow and king crab market. Since the Oregon Dungeness crab Commission (ODCC) has worked to market Dungeness crab in the national

- market, the DCTF felt that they did not need to implement a marketing Commission but, could piggy back on the efforts of ODCC.
- Increase the live Dungeness crab market. Research by Hackett et al<sup>27</sup> and a presentation in meeting 4 by Nick Furman, ODCC, showed that frozen and picked meat yielded a higher value in the market than live crab. However, various DCTF members mentioned interest in increasing the live/fresh crab market.

To identify ways to increase profitability of the fishery, the DCTF has requested an analysis examining the average price changes through the season and crab price fluctuations over the last 10 years be conducted. Additionally, the DCTF would like to know how the price of crab would change if the early season “glut” was reduced.

While some DCTF members believe that reducing the early season “glut” would increase profitability for the fishery, DCTF members representing the processing sector explained that reducing the early season glut would negatively impact their operations since they would be forced to downsize.

As of the drafting of this report, the DCTF has not come to any conclusive decisions on the best way to increase profitability in the fishery.

### **3.5: Data**

There is very little data available on the biology or economics of the Dungeness crab fishery. Since their 1983 report, DFG has not produced any new assessments of Dungeness crab stock size or condition. Additionally, only a few studies have assessed the impact of the state’s current fishery management on the social and economic state of the Dungeness crab fishery and the need for fishery reform. These studies suggest that there are many informational gaps in our current knowledge of the Dungeness crab fishery.

The need for improved access to data as well as collection of better quality data was a common theme identified by many DCTF members. Since biological and market conditions fluctuate from year to year, it is difficult to show biological and economic trends in the fishery with the data currently available (see Appendix 8 for data requested by the DCTF prior to the first DCTF meeting). The DCTF agreed that data should be collected on the following topics:

- Information about the stock size and maturity from year to year
- Ecological impact of crabbing on marine protected areas (MPAs)- Is there any?
- Current levels of gear in the fishery: How much? Where?

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<sup>27</sup> Hackett, S.C., Krachey, M.J., Dewees, C.M., Hankin, D.G., and Sortais, K.. 2003. An Economic Overview of Dungeness Crab (*Cancer magister*) Processing in California. CalCOFI Rep., Vol. 44: 86-93. [http://www.opc.ca.gov/webmaster/ftp/project\\_pages/dctf/Economic\\_Hackett\\_et\\_al\\_2003.pdf](http://www.opc.ca.gov/webmaster/ftp/project_pages/dctf/Economic_Hackett_et_al_2003.pdf). Last visited August 18, 2009.

- Data on nonresident<sup>28</sup> fishing behavior including: 1) the number of nonresidents fishing district 10 versus those fishing in districts 6, 7, 8, and 9; 2) the number of nonresident boats that “double dip” (i.e. fish an opener in California, then head north to fish an opener in Oregon or Washington); 3) the number of nonresident boats that fish California all season.
- The amount of California crab that gets landed in Oregon.
- Data on sport landings.<sup>29</sup>
- Data on the total number of pots fished statewide and in district 10
- CPFV logbook improvements and compliance

The group discussed the use of commercial fishery logbooks to improve data collection but, they were generally rejected by most members.

At each meeting, DCTF members identified a number of questions and made various informational requests. Following Meeting 7, a number of these questions remained outstanding, including:

- Information on methods for derelict gear retrieval: physical methods, methods to adjust current restrictions (i.e. legal constraints to remove someone else’s gear).
- Information on buyback programs including success rates in achieving intended goals of reducing fishery/fleet size, rates of re-entry into the fishery, and migration to a different fishery.
- Information on the cost of producing and implementing a Dungeness crab fishery management plan (FMP).
- Analysis to understand socioeconomic impact from implementation of tools like IFQs versus gear restrictions

The DCTF discussed the need for better data but did not provide recommendations for the type of data that should be made available nor did they recommend that Fish and Game Code be amended to improve access to data.

### ***3.6 Future Considerations***

Due to the time and funding constraints of the DCTF, a number of topics were discussed but, decisions were deferred to a later meeting. The following topics were discussed but no agreement was reached on these topics:

#### **3.6.1 Advisory/Marketing Bodies**

In the March 31, 2010 report, the DCTF recommended the establishment of an industry-funded permanent Dungeness crab advisory body and the continuation of

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<sup>28</sup> As of the drafting of this report (March 2010) there is no clear definition of nonresident.

<sup>29</sup> DFG has recently added Dungeness crab to the California Recreational Fisheries Survey (CRFS)

the DCTF for another 3 years.<sup>30</sup> The report also stated that the DCTF did not support the establishment of a marketing commission.

The DCTF generally agreed that the focus of the advisory body should be a regulatory/legislative focus rather than marketing. They mentioned that the benefit of the existing DCTF was its ability to seat a diverse group of people and suggested retaining the same DCTF members on a future advisory body. However, since the passage of SB1690, the DCTF members and members of the public expressed concern that the representation of the DCTF was skewed to favor the high producers which make up a small portion of the fleet. These individuals suggested that the DCTF (or a future advisory body) maintain the relativity of the fleet by seating latent permit holders and more low producers. However, no agreement has been reached on: how the advisory should be seated, who should sit on the body, how it will be funded, etc.

Members agreed that a Dungeness crab body could be a powerful tool to address issues such as the MLPA and wave energy development. Additionally, such a body could be used to build the industry's trust with regulators.

### **3.6.2 Fishing Cooperatives and Quotas**

The purpose of cooperatives/quota share systems (coops) is “to provide an incentive to manage capital (i.e., reduce or control overcapitalization) in commercial fisheries, and to improve the overall economic efficiency of the fishing industry. Quotas provide an alternative to open access. Market, safety, and social benefits are anticipated from controlling overcapitalization. Thus, quota systems are also intended to create a more stable and profitable market-based system for commercial fishing.”<sup>31</sup>

DCTF members were split on whether they would like to discuss and consider cooperatives. Members were concerned about the potential for coops to consolidate the fishery. Additionally, since a total allowable catch (TAC) the mechanism currently used to design coops or quota systems, it was unclear how a TAC could be set on a fishery with largely fluctuating landings. While they mostly agreed that the government and regulators should not be involved in setting the TAC, they requested more information on how a TAC would be set based on market conditions rather than biological. Conversely, some members believed that a coop would slow the fishing derby and spread landings throughout the season. Various DCTF members requested more information on coops and suggested that the group discuss and investigate them more thoroughly in the future.

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<sup>30</sup> Note: The DCTF did not specify what their preferred choice for an advisory body would be (continuation of the DCTF or another form of advisory body).

<sup>31</sup> Buck, E.H. “Individual Transferable Quotas in Fishery Management.” CRS Report for Congress. <http://ncseonline.org/nle/crsreports/marine/mar-1.cfm> Last visited June 8, 2010.

### 3.6.3 MSC Certification

At meeting 4, the DCTF briefly discussed Marine Stewardship Council (MSC) certification. During a presentation by an ODCC representative, it was mentioned that the Oregon Dungeness crab fishery will likely be certified in May 2010 with back date of crab to December 2009. The DCTF generally agreed that while MSC certification can create valuable marketing opportunities, it was unnecessary and would be inefficient for California to seek MSC certification since they could piggyback off of Oregon. The project team has also informed the DCTF of the new bill (AB1217) passed in California creating a new sustainable seafood certification.<sup>32</sup> This may be a more accessible platform for the Dungeness crab fishery to create innovative and novel marketing opportunities.

### 3.6.4 Refining Current Regulations and Creating New Ones

DCTF members discussed the need to potentially clarify and refine commercial regulations in the Fish and Game Code including:

- Vessel Expansion- California Fish and Game Code 8280.3 limits expansion of vessel length for permits transferred subsequent to November 15, 1995. However, there are currently no regulations in the Fish and Game Code that limit vessel expansion for individuals who have owned a permit since November 15, 1995 or earlier. For example, a permit holder who has owned a permit since 1990 may lengthen a 30 foot vessel by 5 feet or even 40 feet if desired. Additionally, any vessel, regardless of whether the permit was transferred or non-transferred, may expand deck height, width, beams, motor size, etc as much as desired without limitations. At the February 2010 meeting, the DCTF discussed the need to clarify the regulations related to vessel expansion and provide a more detailed explanation of what types of vessel expansion can occur for all types of vessels (transferred and non-transferred).
- Potential restrictions on pot shape and size- Currently there are no limitations on the shape or size of a commercially fished pot. Some members suggested adding restrictions to “level the playing field.” At meeting 5, the DCTF showed very little support for this suggestion.
- Dungeness crab fishing in marine protected areas (MPAs)- At meeting 5, the group discussed the possibility of forwarding a recommendation to allow Dungeness crab fishing in marine protected areas (MPAs). Various members agreed that a recommendation on this subject should include rationale explaining why the fishery should be exempted from the marine protected

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<sup>32</sup> See [http://info.sen.ca.gov/pub/09-10/bill/asm/ab\\_1201-1250/ab\\_1217\\_cfa\\_20090530\\_134828\\_asm\\_floor.html](http://info.sen.ca.gov/pub/09-10/bill/asm/ab_1201-1250/ab_1217_cfa_20090530_134828_asm_floor.html) link effective as of June 8, 2010.



area (MPA) designations (e.g. gear retrieval following a storm, the fact that there is no by-catch associated with the fishery, etc). However, the DCTF could not agree on whether the recommendation should request complete or conditional access to MPAs. Additionally, members were concerned that such a recommendation would make too strong of a political statement. The DCTF could not agree on final text for a recommendation, nor whether such a recommendation would be beneficial to the fishery and its participants. Therefore, the DCTF agreed to table this recommendation until later. (Appendix 16)

### ***3.7: The Sport Fishery***

The sport workgroup was comprised of 7 DCTF members representing sport, CPFV and commercial interests. In addition, representatives from DFG participated in the discussions of the sport fishery workgroup. One conference call was held October 1, 2009 to identify sport fishery objectives, brainstorm solutions, and resolve overlap between the sport and commercial sectors of the fishery. The outputs of the sport workgroup were initially presented to the full DCTF to be discussed and refined at meeting 3. At this meeting, the sport and CPFV representatives explained that they believed that the complex set of issues facing the commercial fishery, particularly those affecting district 10, should be a priority of the DCTF rather than sport fishery issues. The sport representatives suggested that the sport issues be discussed after the commercial fishing issues were resolved. This sentiment, as well as time constraints at meeting 4, delayed further discussion of sport fishery until a subsequent meeting.

In preparation for meeting 5, the facilitation team informed sport and CPFV members that the mandate of SB 1690 necessitated inclusion of the sport fishery in the meeting agenda. Sport and CPFV representatives suggested that further discussion of sport fishery management be conducted by a separate advisory body that is more representative of sport interests in California. They also suggested that such a body work with the DCTF on sport and commercial issues that overlap. At meeting 5, the sport and CPFV representatives were prepared to introduce this idea to the DCTF for discussion. However, due to time constraints at the meeting and since the DCTF wanted to finish addressing commercial issues before moving on to the sport fishery, there was no discussion of the sport fishery at meeting 5, and thus no recommendations were produced or voted on by the full DCTF.

### **3.8 Senate Bill 1093**

In February 2010, Senator Wiggins introduced Senate Bill 1093 in order to fulfill some of the recommendations provided in the DCTF's (Appendix 23). The bill was intended to: 1) amend Fish and Game code section 8276.2 to allow the sale of crab taken pursuant to section 8276.2 to fund the crab quality testing program; 2) extend the life of the DCTF; 3) mandate a 3-year statewide, tiered, pilot pot limit program. Meetings 6 and 7 of the

DCTF were specifically held to recommend amendment to SB1093 to the legislature. In August 2010, SB1093 was held in the Senate Appropriations Committee.

#### **Section 4: Guide for Future Efforts in the Dungeness Crab Fishery**

The mandates of SB1690 have been fulfilled with the completion of the January 15, 2010 report and the March 31, 2010 report. However, as this document highlights, the DCTF generally believes that additional work and discussion is merited in the realm of commercial Dungeness crab fishery management. This document is intended to serve as a tool to inform and guide these future efforts so that they can be efficient and build upon, rather than duplicate the work of the DCTF and the project team. This document should serve as a reference or starting point for future Dungeness crab fishery management discussions.