

# California Whale Entanglement Discussion Dungeness Crab Fishing Gear Working Group Charter

Updated July 2019

## Background

The Dungeness Crab Fishing Gear Working Group (Working Group) was convened in April 2015 by California Department of Fish and Wildlife (CDFW), in partnership with the Ocean Protection Council (OPC) and National Marine Fisheries Service (NMFS), in response to increasing trends in large whale entanglements. This document serves as the Working Group's charter, outlining the group's charge, objectives and priorities, and procedures. Information about the Working Group's activities is available at <http://www.opc.ca.gov/whale-entanglement-working-group/>, including information about the Working Group's current Work Plan which helps to inform and guide Working Group efforts.

## Section I. Charge

The Working Group supports thriving whale and sea turtle populations along the West Coast, and a thriving and profitable Dungeness crab fishery<sup>1</sup>. The Working Group's role is to develop strategies to reduce the risk of whale entanglements in California Dungeness crab fishing gear. In cooperation with a facilitation team (Strategic Earth Consulting) and staff from the CDFW, NMFS, OPC, and the United States Coast Guard (USCG), the Working Group will:

- Provide guidance and make recommendations to the state of California (CDFW, OPC, Fish and Game Commission, and the Legislature), federal agencies (NMFS, USCG), and the Dungeness crab fishing industry, including the Dungeness Crab Task Force (DCTF) regarding how to avoid/minimize entanglements.
  - Identify changes to fishing activity that can reduce entanglement risk; establish priorities for addressing entanglements; share information with other entities seeking to address entanglements in California; as well as develop recommendations regarding funding priorities, management changes, and other actions to further reduce entanglement risk.
- Continue refining the [Risk Assessment and Mitigation Program](#) (RAMP) and using it to assess circumstances where entanglement risk may be elevated and, as needed, identify possible management measures for the CDFW's Director's consideration, as required by [Fish and Game Code \(FGC\) § 8276.1](#);
- Support CDFW's efforts to develop regulations that formalize the RAMP, including criteria and protocols to evaluate and respond to the potential risk of marine life entanglement, by November 1, 2020, as required by FGC § 8276.1;
- Provide input to CDFW regarding the development of a draft Habitat Conservation Plan addressing protected species interactions (i.e. species listed under the federal Endangered Species Act) with Dungeness crab fishing gear; and
- Provide their peers, interest groups, and/or organizations with information about Working Group process, discussions, and recommendations through various means of networking and interaction, as appropriate and in alignment with Working Group communication protocol (see Section F for more information).

The Working Group's charge is to work on the above tasks; it is not to debate the virtues of whether efforts should be made by the Dungeness crab industry to reduce the potential for whale entanglements.

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<sup>1</sup> Note: All references to the Dungeness crab fishery/industry considers both recreational and commercial fishing communities.

## **Section II. Objectives and Priorities**

The Working Group will work to advance the objectives and priorities outlined below. *Objectives* are the steps needed to reach the Working Group's charge. *Priorities* are areas identified by state and federal partners that require the Working Group's consideration.

### **A. Working Group Objectives**

The Working Group has identified a number of objectives to guide its efforts over the coming years. When possible, the Working Group will aim to connect across objectives to maximize efficiency and coordination. The Working Group and its Project Teams will further prioritize objectives and related tasks, and identify specific timeframes and/or deadlines associated with key deliverables. In addition, the objectives will be updated as needed to reflect new information and the Working Group's ongoing progress.

Draft proposed objectives include:

- Gather and analyze available data on forage/ocean conditions, whale concentrations, fishing dynamics, and marine life entanglements to identify elevated levels of entanglement risk and determine the need for management options to mitigate risk.
- Design, solicit funding (as needed), and implement short-term test projects related to enhanced data collection and gear innovations, with attention to drawing upon fishermen's experience and knowledge;
- Confirm Project Team's areas of focus and develop goals, key tasks/deliverables, metrics, and associated timelines for priority projects; and
- Continue communicating with target audiences to share Working Group recommendations, encourage widespread participation of voluntary actions, broadly distribute key messaging and communications products (e.g. Best Practices Guide), and be responsive to the needs of the Working Group and agency priorities.

### **B. CDFW and NMFS Priorities**

The following agency priorities are envisioned to be carried out in partnership with the Working Group.

Draft CDFW priorities include:

- Identify information needed to minimize impacts to listed species from California Dungeness crab fisheries;
- Develop regulations that establish criteria and protocols to evaluate and respond to the potential risk of marine life entanglement (i.e. codify the RAMP program) as required by FGC§ 8276.1, by November 1, 2020;
- Submit a draft Habitat Conservation Plan addressing listed species interactions with the California Dungeness crab fishery to NMFS by May 2020, which will include mitigation measures that may be identified in the RAMP, and develop other components of a complete Incidental Take Permit application;
- Continue improving data gathering on entanglements and efforts to understand entanglement sources and impacts in an efficient manner. Establish metrics of success to inform evaluation of information collected;

- Engage the fishing community, state managers, and other interested stakeholders to understand and develop measures to minimize risks/severity of whale entanglements on the West Coast; and
- Apply the collaborative approach of the Working Group to address entanglement risk in other state managed fixed-gear fisheries as required.

Draft NMFS priorities include:

- Assist the Working Group with collection/review/analysis of entanglement data, along with other biological, environmental, and socio-economic data, to better understand the factors that influence entanglement risks
- Discuss current or promising initiatives regarding specific topics/priorities/recommendations made by or brought to the Working Group (e.g. Bycatch Reduction Engineering Program (BREP) funding and gear research, fishing effort data collection);
- Discuss potential strategies for minimizing entanglements, both short-term, long-term, voluntarily/advisory, regulatory, etc.;
- Discuss specific proposals to address key unknowns and information deficits, facilitate research and/or idea development to collect missing information and test ideas to reduce entanglement risk, and identify entities capable of pursuing and accepting funding for potential project ideas;
- Provide outreach to the community about the overall issue of whale entanglements in California waters, including progress and priorities of Working Group; and
- Consider how to integrate other California fixed gear fisheries and other marine species of interest into discussion of overall California approach to addressing entanglement issue.

### **Section III. Composition**

Currently, the Working Group is comprised of recreational and commercial fishing industry representatives, state and federal agencies, representatives from the whale disentanglement network, and nongovernmental organizations. In addition to Working Group participants, select individuals with additional expertise or perspective beyond Working Group participants are invited to inform Working Group discussions (e.g., legislative or agency staff, fishing gear manufacturer/distributor, data analysts, etc.). Advisors help inform the Working Group recommendations, but will ultimately not be included in the decision making needed to make a recommendation.

The selection of the Working Group and its Advisors is at the discretion of the CDFW Marine Region Manager. In appointing Working Group participants, the Regional Manager may consider professional expertise or experience, diversity of perspectives, geographic location, willingness to express fundamental interests as opposed to fixed positions, ability and willingness to share Working Group updates with peers, willingness to convey the interests of one or more groups and to integrate diverse interests, capacity to work with diverse viewpoints, and ability to work constructively and collaboratively. All Working Group participants must have an active email address and phone number to facilitate communication.

**Working Group Participants**

First Name	Last Name	Affiliation	Location	Project Team
Jim	Anderson	Commercial Fishing	Half Moon Bay	Solar Logger, Gear Innovations, Communications
Ryan	Bartling	CDFW Marine Region		Solar Logger, Gear Innovations, Funding, Aerial Survey
Mike	Cohen	Commercial Fishing	Port San Luis/Morro Bay	Gear Innovations
Tom	Dempsey	The Nature Conservancy	Monterey Bay Area	Solar Logger, Gear Innovations, Communications
Calder	Deyerle	Commercial Fishing	Monterey Bay Area	Solar Logger, Gear Innovations
Tom	Estes	Commercial Fishing	Fort Bragg	Solar Logger, Gear Innovations
Kathi	George	Whale Disentanglement Network	Monterey	Solar Logger, Aerial Survey, Communications, Whales
Rick	Harris	Processor	Eureka	Gear Innovations, Aerial Survey
Gerry	Hemmingsen	Commercial Fishing	Crescent City	Solar Logger, Gear Innovations, Communications
Travis	Hunter	Commercial Fishing	Eureka	Solar Logger
Morgan	Ivens-Duran	CDFW Marine Region		Solar Logger, Gear Innovations, Aerial Survey, Whales
Doug	Laughlin	Coastside Fishing Club	Santa Cruz	Solar Logger, Aerial Survey, Communications
Dan	Lawson	NMFS		Gear Innovations, Funding, Aerial Survey
Tom	Mattusch	Commercial Passenger Fishing Vessel	Half Moon Bay	Solar Logger, Gear Innovations, Communications
Lori	Mazzuca	US Coast Guard	Monterey	Solar Logger, Gear Innovations, Aerial Survey
John	Mellor	Commercial Fishing	San Francisco	Solar Logger, Gear Innovations

Dick	Ogg	Commercial Fishing	Bodega Bay	Solar Logger, Gear Innovations, Aerial Survey, Communications
Noah	Oppenheim	PCFFA	San Francisco	Solar Logger, Communications
Daniel	Quinley	CA Coastal Crab Association	Sacramento	Gear Innovations, Aerial Survey, Communications, Whales.
Andy	Roberts	CDFW Enforcement		Gear Innovations
Susan	Rotwein	Commercial Fishing	Trinidad	Aerial Survey, Communications
Lauren	Saez	NMFS		Solar Logger, Gear Innovations, Aerial Survey, Communications, Whales
Geoff	Shester	Oceana	Monterey	Solar Logger, Gear Innovations, Funding, Aerial Survey
David	Toriumi	Commercial Fishing	Santa Cruz	Aerial Survey
Andrea	Treece	Earthjustice	Oakland	Gear Innovations

### C. Project Teams

Comprised of a subset of Working Group participants, Project Teams involve Working Group participants and Advisors in focused discussions outside of Working Group meetings to further priority projects. Each Working Group participant is encouraged to participate on at least one Project Team.

Project Teams operating are as follows:

- **Whales/Turtle Project Team:** Data review, scientific analysis, identification of and suggestions for addressing data gaps, etc.
- **Aerial/Vessel Survey Project Team:** Coordinate and support aerial and/or vessel surveys to inform the RAMP.
- **Gear Innovations Project Team:** Provide guidance for and, where appropriate, implementation of gear innovation testing to help inform the RAMP, and specifically the Management Measures Toolbox (MMT).
- **Solar Logger Project Team:** Build awareness and solicit participation in this pilot project, receive initial data outputs for review and feedback.
- **Communications Project Team:** Consider how to communicate the Working Group’s activities through outreach materials, trainings, best practices guides, etc.

With the support of the facilitation team, efforts to identify a Working Group participant to lead each project team to coordinate discussions and actions including goals and objectives, priority projects, proposal development, etc. Project Team leads will share updates on the team’s activities with the broader Working Group for feedback. Where leads are not identified Project Team participants (including leads) are indicated in the table above.

Regularly scheduled calls will be held with each Project Team to provide focused attention to each topic as needed based on priorities of the Working Group. The Working Group will be informed on Project Team progress via email updates and during full Working Group calls. All work, suggestions, and ideas of the Project Teams will be reported back to the full Working Group for consideration. Agreement within or across Project Teams is not necessarily an endorsement of the full Working Group. Project Teams discussions and ideas are intended to inform Working Group efforts (see below for information on Working Group decision-making procedures). Ideas generated by Project Teams may be carried out by individual(s) and/or small groups comprised of Working Group participants outside of the Working Group; these will not be considered Working Group product(s). Each Project Team will consider funding and resource needs specific to their respective projects/programs which will be shared with the full Working Group (and others) for additional input.

#### **Section IV. Procedures**

##### **D. Ground Rules (Meeting Agreements)**

Working Group participants agree to:

- Participate in each meeting prepared to constructively discuss agenda items. This includes reviewing materials and information distributed in advance of the meeting or conference call, connecting with the facilitation team to talk through questions, comments or concerns, and soliciting input from constituents between meetings;
- Engage in a cross-interest dialogue focused on working with other Working Group participants to support constructive discussions focused on interests rather than fixed positions;
- Represent the perspectives and interests of his/her respective constituencies and/or organizations, listen for understanding and openly discuss issues with others who hold diverse views;
- Acknowledge and seek clarification of others' perspectives and verify assumptions when necessary;
- Focus the discussion on strategies and solutions that move the conversation forward and avoid revisiting agreements and/or topics that have been addressed by the group (or agencies) previously; and
- Negotiate with other Working Group participants using a mutual gains approach to evaluate and decide among proposed options and various alternatives.

##### **E. Recommendation-Making Procedures**

All Working Group recommendations will be shared directly with CDFW, NMFS, OPC, USCG, the California Legislature, the Dungeness Crab Task Force, and publicly. Recommendations will be posted on the OPC website, shared via the Working Group's email list, and communicated to other key audiences identified by the Working Group.

Working Group recommendations will be made by consensus. Consensus is based on principles of "consensus with accountability" and is a collective agreement towards a recommendation or course of action. This means that participants must try to reach consensus while at all times supporting and expressing his/her self-interest. If a participant cannot support an option or recommendation, then they are responsible for proposing an alternative that legitimately attempts to achieve their interest and the goals of the Working Group. In efforts to reach consensus, all voices will be heard and creative solutions will be sought to resolve issues and craft options that encompass the diversity of viewpoints. During the course of reaching consensus, a "minority" view or views

may become apparent. The Working Group will seek to address and acknowledge minority viewpoints that have been expressed.

The facilitation team will schedule meetings in a fashion to maximize full Working Group attendance. However, in the case where full Working Group meetings or calls do not have full attendance, consensus reached will be deemed *full consensus* of the Working Group and recommendations will move forward. The facilitation team will work with Working Group participants to ensure meeting composition has broad participation, and actions and/or recommendations that are arrived at are inclusive. Recommendations/ideas that *do not have full consensus* will still be reflected in the key themes summaries (and other Working Group products). In some cases state and federal representatives may recuse themselves from weighing in on Working Group products; this will not prevent a consensus product from moving forward.

Between Working Group meetings/calls, email communication will be utilized to gain consensus on written products. The facilitation team will make every effort possible to follow up with Working Group participants on consensus-based actions ( i.e., direct phone calls) to uphold inclusivity.

#### **F. Attendance and Meeting Requirements**

Participants are expected to serve to their best ability and are expected to attend all in-person meetings and full Working Group conference calls. Failure to attend in-person meetings and/or up to two (2) full Working Group conference calls will result in an evaluation of an individual's ability to serve on the Working Group by the CDFW Marine Region Manager and may be cause for the participant to step down. Each participant has the option to select an "observer" to attend conference calls and meetings. This individual will be consistent throughout the participant's term, and will not have any role in the recommendation making process. Full Working Group calls (via conference line) and in-person meetings (in-person or via conference line) will include a 'listen only' option for interested stakeholders and members of the public. Scheduling public meetings will consider Bagley Keene requirements (i.e., more than two DCTF members participating in the meeting) and materials shared during these meetings will be made available on the Working Group's webpage unless otherwise noted. The Working Group and its advisors may retain the option to hold closed door sessions to discuss sensitive issues/topics prior to or following public meetings. Attendance to closed door sessions by individuals other than Working Group participants listed in the table above (including advisors) is at the discretion of the facilitation team.

As part of the Working Group's facilitation team, a CDFW senior staff member is required to be present on all calls and at all meetings. If a CDFW senior staff member has to leave the call or meeting early, then the call or meeting will adjourn at that time unless another CDFW senior staff member is present.

#### **Conference Calls- Working Group, Evaluation Team, Project Teams**

Working Group, RAMP, and Project Team calls will be held on a rotational or as-needed basis. The facilitation team will work with participants to convene meetings based on the urgency of the topic. Attempts will be made to schedule conference calls well in advance and in consideration of other priorities (e.g., Fish and Game Commission meetings, Pacific Fishery Management Council meetings, DCTF meetings, other fishing seasons, etc.) to ensure broad participation from the Working Group.

The facilitation team will work with Working Group participants and agencies to develop meeting and call agendas, summaries, next steps documents, etc. Additionally, the facilitation team will work with meeting presenters and others to develop and prepare meeting materials. Call-in information, meeting agenda, and

meeting materials will be circulated to all Working Group participants in advance of calls and in-person meetings with adequate time to review by participants.

### **G. Travel Reimbursements**

A limited travel reimbursement budget is available to cover associated expenses for Working Group participants. This available funding is intended to provide financial support to those participants who do not receive travel reimbursements by their place of employment for attending in-person Working Group meetings. Participants must submit a request to the facilitation team via email seven (7) days prior to a scheduled meeting. Disbursement of travel funds will be at the discretion of the facilitation team and will be based on distance travelled, etc. CDFW is exploring options to provide a day rate to help offset lost wages of Working Group participants (fishermen and others), specifically, when attending in-person RAMP meetings and conference calls. This section of the Charter will be updated once/if the option of day rates is confirmed.

### **H. Communications Protocols and Information Sharing**

To achieve its goals and objectives, the Working Group is committed to transparency and open lines of communication among participants, as well as with their peers.

Between or in preparation for meetings, the Working Group may receive materials such as meeting agendas and notes, Project Team updates, entanglement data, project proposals and results, and draft key findings or recommendations memos. All information received is considered public. The Working Group will work collaboratively to identify how/when information is shared with peers, and will work with the intention to share materials externally through unified communications and messaging. This may include, but is not limited to, developing joint announcements, press releases, blog and social media posts, etc. Working Group participants will act in good faith to communicate with the Working Group their ideas for how to share information, and will extend invitations to have information sharing be a Working Group “product”.

Working Group participants are strongly encouraged to keep their peers, interest groups, and/or organizations informed about Working Group process, discussions, and recommendations through various means of networking and interaction, as appropriate. This communication should align with Working Group communication protocol. In circumstances where there is not a unified Working Group message, participants will use their best judgement of how and when to distribute information to their peers.

Through the RAMP, the Working Group may make management recommendations to CDFW which result in adverse impacts to the Dungeness crab fleet. In these instances, CDFW will develop and share official communications to the fleet and other stakeholders regarding the implemented management measures rather than relying on Working Group participants. CDFW communications will emphasize that while the Working Group makes recommendations, ultimately CDFW decides when and how to implement management measures for the fishery.

Working Group participants may provide their perspectives to peers, media, etc. as individuals, but may not speak on behalf of the full Working Group; such communication will not be considered a Working Group product. Any correspondence, reports, or other written documents developed on behalf of the full Working Group that constitutes a “Working Group product” will be shared with the facilitation team for final approval prior to circulating publicly. Public summaries of full Working Group deliberations and outcomes will be made available on the OPC website. Project Team summaries will not be posted online.

When corresponding via email, please “reply all” to maintain inclusivity and transparency in all Working Group communications. Participants are expected to abide by the ground rules across all forms of communication (see above).

#### **J. Team Roles**

Several agencies and organizations are collaborating to support the implementation of the Working Group. Roles and responsibilities include:

- Ocean Protection Council (OPC)
  - Support convening of Working Group;
  - Provide neutral support for Working Group and Project Teams;
  - Provide funding to support Working Group priorities pending Council approval, including Working Group operations and RAMP;
  - Maintain online record of Working Group products and summaries; and
  - Print materials for Working Group products.
  
- California Department of Fish and Wildlife (CDFW)
  - Primary convener of the Working Group;
  - Provide staffing and funding to support Working Group operations and RAMP function;
  - Select Working Group participants;
  - Inform Working Group priorities; and
  - Provide strategic support for Working Group and Project Teams.
  
- National Marine Fisheries Service (NMFS)
  - Provide strategic support for Working Group and Project Teams; and
  - Data review and analysis.
  
- United States Coast Guard (USCG)
  - Provide neutral support for Working Group and Project Teams.
  
- Strategic Earth Consulting
  - Project management and administration for the Working Group and Project Teams;
  - Neutral facilitation support for in-person meetings and conference calls; and
  - Development of meeting notes and summaries of key recommendations.