



500 Capitol Mall, Suite 1600  
Sacramento, CA 95814  
T. 916.447.0700  
F. 916.447.4781  
www.stoel.com

DANIEL L. QUINLEY  
D. 916.319.4658  
daniel.quinley@stoel.com

September 20, 2019

**VIA EMAIL ONLY**

Ryan Bartling  
California Department of Fish & Wildlife  
ryan.bartling@wildlife.ca.gov

**Re: California Coast Crab Association's 2019-2020 Proposal**

Dear Ryan:

Attached find the California Coast Crab Association's 2019-2020 Proposal in response to CDFW's "Straw Proposal." If you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Daniel L. Quinley", is written over a light blue rectangular background.

Daniel L. Quinley

DLQ:DLQ

## CCCA Proposal For Working Group Consideration

### **I. Introduction.**

The California Coast Crab Association (“CCCA”) is a coast-wide, industry-only trade association that was formed to promote and defend the California commercial Dungeness Crab fishery. CCCA was established in response to the closure of our fishery resulting from the *CBD vs. Bonham* Settlement Agreement. The consensus of CCCA’s members is that the terms of the Settlement Agreement are out of proportion to the actual risk presented by Dungeness Crab gear to ESA-listed whales and insufficiently informed by input from the fishing industry.

Since forming in May 2019, CCCA has become a true coast-wide group of crab permit holders, hired captains, crab buyers, and processors. Our membership represents the majority of production both in the fleet and in the buying sector. We have more individual members than any commercial fishing industry group in the history of commercial fishing in California. CCCA has raised more money in a few months than any commercial fishing group in California has raised in one year. In addition, 12 of the 13 industry seats on the Working Group are occupied by CCCA members. Our California legal counsel, Daniel Quinley of Stoel Rives LLP, occupies a seat on the Working Group as the designated CCCA representative.

In short, the crab fishing industry in California has made the decision to entrust CCCA with the job of working with California Department of Fish and Wildlife (“CDFW”) and the California Dungeness Crab Fisher Gear Working Group (“Working Group”) to achieve a sustainable fishery that will be as economically meaningful and sustaining to our coastal port communities as it was before the Settlement Agreement, while also adequately protecting marine life consistent with all applicable laws. CCCA intends to achieve those goals for our members and the rest of the participants in the fishery.

As indicated above, CCCA believes the terms of the Settlement Agreement were developed without consulting active crab fishing industry participants about fleet dynamics, common fishing practices, or practicality. CCCA believes that the fleet can maintain its economic integrity and protect ESA-listed species. CCCA looks forward to actively participating in managing the fishery to allow both economic success and species protection. Notwithstanding any future regulation, CCCA recognizes the constraints of the Settlement Agreement, including the helpful allowance of “other management actions” and “different approaches” to protect ESA listed species based on the best available science.

CCCA nevertheless wants to be clear that its proposal for opening and conducting the 2019-20 season in no way constitutes an endorsement of the Settlement Agreement. Nor should this proposal be considered a basis for the terms of an eventual CP/ITP or regulations promulgated by CDFW. CCCA fully expects and anticipates that a CP/ITP will allow much more flexibility for the fleet, include triggers (if any) that are based on actual confirmed interactions, be focused and narrowly tailored, and appropriately consider the economics and practicalities of the fishery.

With that said, CCCA’s proposal sets forth such “other management actions” and “different approaches” that will protect ESA-listed species, as contemplated by the terms of the Settlement Agreement. This proposal would allow for a full and meaningful crab season for 2019-20 that directly addresses the need to avoid whale and turtle interactions with common sense and practical gear modifications, enforcement of existing industry-initiated measures, better data collection, and an equitable seasonal structure that takes into account typical whale

migrations and fleet dynamics. We believe, as crab fishermen and buyers with many lifetimes of first-hand knowledge of how this fishery works, that the best solutions are those that are both simple and effective. CCCA has no interest in promoting, supporting, or participating in a “token” crab season. Our members have joined and funded our effort with the hope of having a crab season that represents a real opportunity to pay their bills and sustain their fishing businesses and their families.

As part of its proposal, CCCA is offering to provide assistance to the Working Group by hiring independent scientific experts to help with surveys and any other activity that can help provide the best available science to the agencies. We are also proposing to promote better gear practices pre-season among the fleet that have a high probability of helping to avoid all interactions with whales. We will do this at our own expense and with outreach by fishermen who have the best chance of convincing their peers to adopt practices that will avoid whale entanglements.

Finally, this proposal is being reviewed for feedback and input by our membership and any other interested crab fishermen and buyers at local port meetings being held this week. We also invite the feedback from Working Group members.

CCCA’s proposal is visually depicted in the attached flowchart. The following sections provide points and explanations supporting the proposal.

## **II. Pre-Season Actions.**

A. CCCA proposes to use its own resources and personnel pre-season to implement a fleet-wide “Slack Line Initiative.”<sup>1</sup> The Slack Line Initiative will focus on convincing the fleet to fish their crab gear with less slack and tighter buoy lines, no matter what depth of water in which they have set their traps. We will do this through outreach that will include social media, flyers, and port meetings. We will develop specific recommendations based on existing scientific studies that show whales have little chance of entanglement with a certain ratio of slack-to-depth.

B. CCCA will encourage all crabbers, while pre-season gear work is beginning coastwide, to adopt all of the “best practices” developed in recent years by the Working Group to avoid entanglements, including the regulations adopted before the 2018-19 season mandating changes in surface “trailer line” length and amount of surface “trailer” buoys. The CCCA will also work with CDFW to improve enforcement of these existing regulations meant to reduce the risk of entanglement.

CCCA is willing to work with CDFW to ensure its members, and the broader fleet, are actively engaged in measures outlined in A and B, and that outreach, trainings, and information is widely available. CCCA also believes that the norms of the fleet ensure that crabbers follow these best practices and that CDFW is responsible for ensuring enforcement of any existing or future regulations.

---

<sup>1</sup> Both state-level fisheries and whale entanglement experts believe that such a slack-line initiative will be effective. CCCA is working on developing the specifics of the initiative to share with CDFW and the working group as soon as possible.

C. CCCA proposes to hire an independent scientific expert, or experts, to assist CDFW and NMFS with the collection and interpretation of whale survey data, fleet composition, and fishing dynamics to improve the “best available science” used by the Working Group to assess risk.

D. CCCA proposes to purchase solar loggers for a representative sample of its member vessels to conduct research into fleet dynamics during the 2019-20 season.

### **III. In-Season Management.**

A. CCCA believes that the most effective “in-season” management tools are simple, narrowly tailored and focused on mitigating interactions with ESA-listed species, and designed to have the least possible economic impacts on the fleet. Furthermore, given the realities of data accessibility during the season, CCCA is strongly opposed to measures that prematurely punish the fleet based on limited and uncertain data. CCCA’s proposal focuses on the least restrictive management measures necessary to avoid whales during the fishing season, including gear modifications and time/area restrictions, if necessary.

B. CCCA believes that common-sense, enforceable geographic area closures are appropriate, and, in that vein, proposes “surgical” latitude/longitude closures based on the best available information, including but not limited to, whale survey data, whale population modelling, ocean forage conditions, confirmed interactions, and fleet dynamics data. CCCA supports using *all* available, reliable data to make these types of management decisions.

C. CCCA believes that the metrics expressed in Exhibit A of to the Settlement Agreement are poorly defined and do not correlate to the dictated management measures (“district-wide closure”). CCCA thus advocates for CDFW to pursue *all* available and rational management measures in lieu of fishery or district closures. Furthermore, CCCA believes that such actions should be carefully tailored to observed data and based on the best available science. CCCA has utilized metrics based on those presented by CDFW, but believes that any metric that determines a management action should be informed by the best available science. Experts are essential to ensure that marine life concentration data is interpreted appropriately and any management action correlates to the best understanding of the data.

D. CCCA recognizes concerns from Central California fishermen located in Districts 10 and 17 relating to the season-opener and the potential impact of “derby fishing” on fleet dynamics. CCCA thus proposes that if pre-season risk is assessed at anything other than low, there is a coast-wide opener on December 1, to ensure that initial fishing effort is appropriately distributed and that out-migration of whales from the coast, and particularly District 10, is substantially complete. An even fishing-effort distribution would lower the concentration of gear in Central California during the out-migration period, thereby significantly reducing risk.

#### IV. Spring Fishing.

A. CCCA objects to the default closure of the fishery on April 1. The spring fishery south of Gualala Point is a low-volume, economically critical time. Districts 10, 17, and south crabbers, as well as “live” crab buyers depend on the spring fishery to survive.

B. CCCA also objects to the reliance on gear modification provisions (*e.g.*, a default that only “ropeless gear” is allowed, when such gear is neither used by the fleet, tested in real-world conditions, or economically viable). CCCA would like to see crabbers test proposed gear innovations *after* April 1 south of Gualala. The southern area should reopen to coincide with the fishery’s need to ocean-test, during actual in-season fishing conditions, many of the gear modifications that have been proposed at the Working Group (and outside the Working Group). This real-world testing is critical because these modifications have not been developed or proven practical or effective enough to recommend or implement during the fall and winter 2019-20 season. CCCA supports the ability of some crabbers being allowed to test these gear ideas after April 1, south of Gualala.

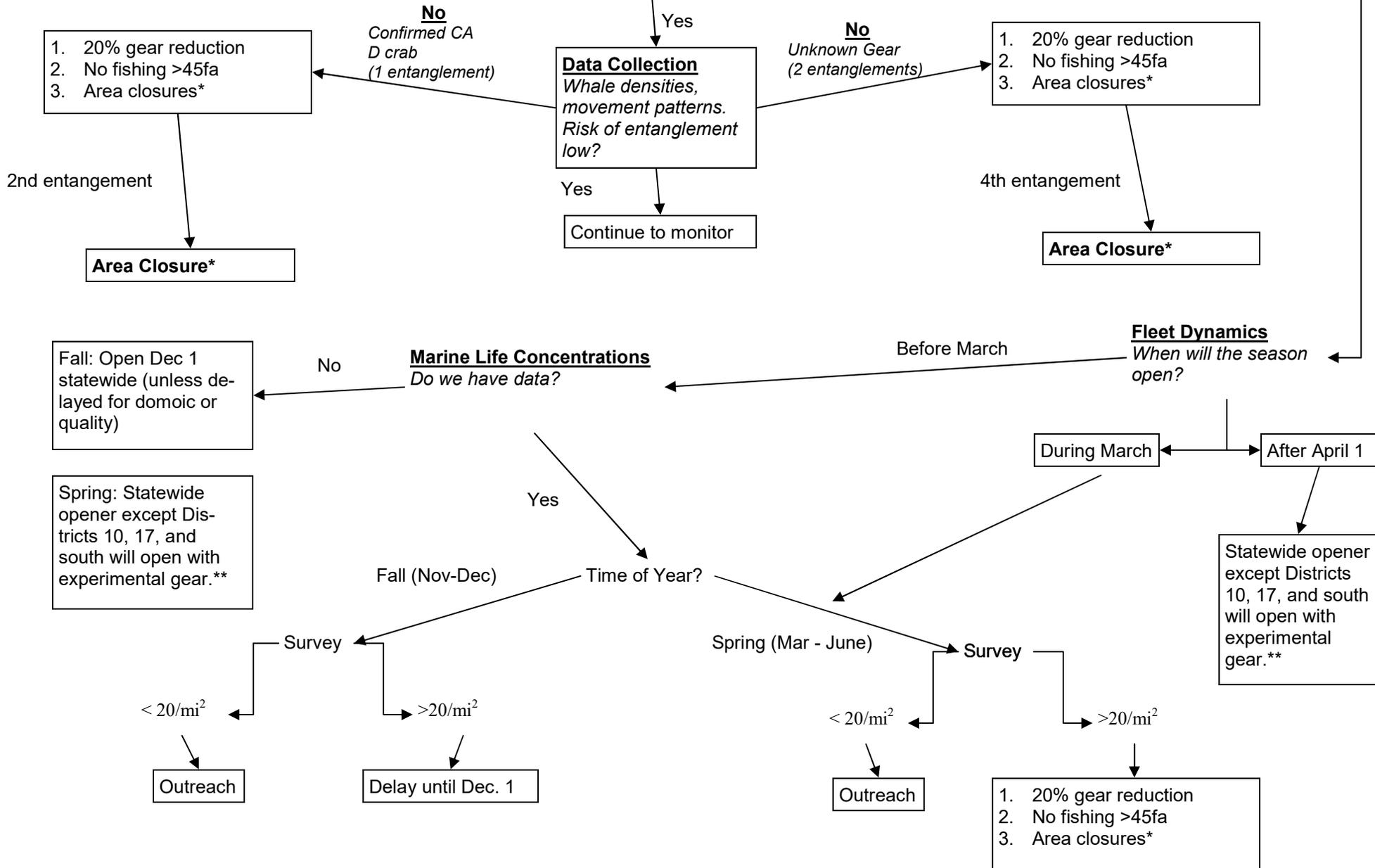
For example, CCCA would support CDFW’s attempts to get experimental fisheries permits, or other appropriate dispensation, to test “longlining” and other vertical line reduction measures in the immediate fishery. Unlike “ropeless gear,” these efforts present a viable and immediate alternative to vertical lines.

C. CCCA also believes that a statewide, April 1 closure based on lacking Marine Life Concentration data ignores the “best available science” and fleet dynamics. The North Coast districts (Districts 6 and 7) have minimal entanglement risk, even during the Spring fishery. CCCA believes CDFW should assess risk for the northern districts, through the Working Group, separately from the South District. If the Working Group determines low risk in the north, the Northern Districts should remain. If the Working Group determines that entanglement risk is elevated, CDFW may begin to take management actions. It is important to propose a springtime, experimental fishery in the southern districts as an alternative to an infeasible mandate for “ropeless” gear while maintaining open northern districts.

# HUMPBACK WHALES

## Confirmed Entanglement(s)?

During the pre-season soak  
Period or during the open  
season



\*Possible area closures include the following, or combination of the following: Pt. Conception to Pt. Sal to Pt. Estero to Piedras to Pt. Lopez to Pt. Sur to Pigeon Pt. to Pt. San Pedro to Pt. Reyes to Salt Point to Pt. Arena to Mendo Point to Cape Viscaino to Degado Canyon to False Cape to Eel River to Eureka South Jetty to Lampher Dunes to Little River to Patricks Point to Reading Rock to Klamath River to Round Rock to Oregon border

\*\*Yale grips/breakaway, pingers, 2 pots per vertical line, longlining, solar loggers