

**DCTF MEETING 4  
UKIAH, CALIFORNIA  
OCTOBER 21 AND 22, 2009**

**MEETING SUMMARY**

**INTRODUCTION**

The purpose of this meeting summary is to:

- Inform all Members of the Dungeness Crab Task Force (DCTF) and the wider public of ongoing work of the DCTF
- Provide a summary of discussions and outcomes from DCTF Meeting #3 held in Ukiah, California on October 21 and 22, 2009

During each meeting of the DCTF, notes are taken by Ocean Protection Council (OPC) staff. Subsequently, the neutral project Facilitation Team (staff from the California State University Sacramento, Center for Collaborative Policy [CCP] and T.C. Hoffmann & Associates) reviews and edits the meeting summary, which is then reviewed by the full DCTF.

**Day 1 – October 21, 2009**

9:30 a.m. to 7:00 p.m.

**ATTENDEES**

Jim Anderson, F/V Alliane	Brett Fahning, F/V Rogue
John Atkinson, F/V New Rayann	William Forkner, F/V Shirley and F/V Audrey
Geoff Bettencourt, F/V Moriah Lee	Gerry Hemmingsen, F/V Pollux
William Blue, F/V Morning Light	Paul Johnson, Monterey Fish Market
Stan Carpenter, F/V Sandy B	Chris Lawson, F/V Seaward
Bill Carvalho, Wild Planet Fisheries	Brooke McVeigh, CA Department of Fish and Game
Lawrence Collins, F/V Autumn Gale	Ben Sleeter, recreational fisherman
Michael Cunningham, F/V Sally K	Randy Smith, F/V Mistasea
Bill DeBacker, F/V She N I and F/V Jard	Don Standley, F/V Terry S and F/V One and All
Richard Young, California Association of Harbor Masters and Port Captains	
David Bennett, Alternate for Lee Wilson, F/V Gold Coast	
David Crabbe, representing, Johanna Thomas, Environmental Defense Fund	
Tom Estes, Alternate for Vince Doyle, F/V Verna Jean	
Craig Goucher, F/V Second Wind, Alternate for Mike Zamboni, F/V Lucky 50	
Rick Powers, Alternate for Roger Thomas, F/V Salty Lady, Golden Gate Fishermen's Association	
Lt. Jon Wilcox, Alternate for Lt. Steve Riske, CA Department of Fish and Game	

Absent:

Jim Waldvogel, CA Sea Grant  
Kevin McKernan, recreational fisherman

OPC staff present:

Chris Blackburn  
Rachelle Fisher  
Cina Loarie  
Neal Fishman

Facilitation Team present:

Dave Ceppos  
Dr. Tegan Hoffmann  
Rich Wilson

## 1. *Welcome, introductions, and agenda review*

Dave Ceppos, lead facilitator for the Facilitation Team and Managing Senior Mediator at CCP, welcomed everyone to the meeting and introduced the rest of the Facilitation Team – Dr. Tegan Hoffmann and Rich Wilson of T.C. Hoffmann & Associates. Prior to reviewing the meeting agenda and facilitation strategy, Mr. Ceppos explained that the Facilitation Team and OPC would be recording the plenary at every meeting. However, as allowed by the Bagley-Keene Open Meetings Act, all recordings will be deleted 30 days after each meeting.

Mr. Ceppos reminded the group that this is a working meeting of the DCTF that is open to the public, but the meeting is not a public hearing. He assured members of the public that there would be opportunities to make comments at several points throughout the two-day meeting.

Mr. Ceppos reminded the group that voting would take place at this meeting. He reminded them that the DCTF Charter, (voted on and approved by Members during meeting 2 in San Francisco), requires “consensus with accountability”. As such, if Members vote no on a proposed recommendation, they will be asked to explain why they voted against an idea or abstained and what alternative they propose that will address their concerns as well as those of others. In addition, Mr. Ceppos pointed out( in response to a Member question), that abstentions are allowed, but that they would not affect the 2/3rds voting threshold that constitutes a recommendation, as agreed upon by Members and memorialized in the Charter. Some Members asked about the possibility of using secret ballots for voting. Mr. Ceppos explained that the Bagley-Keene Open Meetings Act does not allow for secret ballots.

Prior to reviewing the meeting agenda, Mr. Ceppos took a few moments to take stock of progress made by the DCTF during its first three meetings. He highlighted the hard work of all DCTF Members to date and pointed out that, on many critical issues, such as pot limits or latent permits, Members were close to consensus. However, the remaining steps needed to achieve consensus may be big steps. He acknowledged the desire of many to immediately begin negotiating these critical issues, but advised Members to avoid jumping ahead to voting that would take place at the end of day 2. He instead pointed to other issues that needed to be incorporated into the discussion, such as knowledge gained from informational presentations on day 1 as well as consideration of recommendations on the sport fishery, the potential creation of a permanent Dungeness crab advisory body, and a marketing commission. Finally, he reiterated that any agreements memorialized through the formal voting process may still be conditional, and that it would be up to the Members to determine whether or not they felt these agreements had enough substance when considering how they may cast their vote.

Mr. Ceppos then discussed the meeting’s agenda. He explained that the group will be working iteratively to achieve consensus.

## 2. *Informational presentations - DFG data presentation, and a qualitative and quantitative analysis of proposed California Dungeness crab fishery management measures*

During and subsequent to meeting 3 of the DCTF, the California Department of Fish and Game (DFG) has received a number of distinct yet related data requests on the fishery. Pete Kalvass,

DFG, [presented an analysis of the requested data to the DCTF](#). Before his presentation began, Mr. Kalvass stated that everyone reviewing the information he presented should keep in mind that there are caveats to the data—difficulty in determining home port location, limited information currently available, and the fact that the data analysis was completed hastily during a very compressed period in an attempt to honor the requests made by DCTF Members.

Mr. Kalvass, and his colleague Brooke McVeigh, stated that the DFG analysis demonstrated that the percentage of Dungeness crabs caught in District 10 by permit holders based in District 10 ranges between approximately 70-80% (plus or minus 5%). In addition, Mr. Kalvass presented data showing a price analysis of crab throughout the state, focused on the early months of the season. Following the presentation, Members asked several questions related to methodology of the data analysis and further explanation of caveats. One Member inquired as to how DFG could determine whether or not Oregon crabs are ending up in California. DFG responded that accessing Oregon logbooks would be the only way to determine the answer to that question.

Mr. Kalvass presented a [spreadsheet with a rough cost estimate for pot tags](#), should a pot limit program for California be considered or recommended by the DCTF. Some Members believed the cost estimate to be high. DFG explained that a California pot program would likely cost more than one in Oregon since California does not have equivalent enforcement requirements. A DCTF representative of DFG explained that a pot limit program in California may not drastically change DFG's current enforcement procedures, and it would be unlikely that DFG would hire new staff to enforce such a program. If dedicated funds were established from a pot tag program, DFG could potentially hire more enforcement staff. Absent dedicated funds, it is possible that a fee assessed on fishermen will not necessarily result in additional wardens on the water and additional time assigned to the issue.

Members asked how an accurate estimate of a pot limit program or the cost of pot tags could be determined. Some Members questioned whether a pot limit program could even be implemented without additional resources. In order to remedy this issue, one Member suggested assessing extremely high fines on violators of the program in order to prevent cheating, thereby decreasing enforcement costs.

The DCTF engaged in a discussion on the potential costs of a pot limit program in District 10. The feasibility of a “pay to play” pot limit program (paid for by participants of the District 10 fishery) was discussed at length. One Member commented that a pot limit program in District 10 could be a trial program, monitored along the way and adapted based on lessons learned.

### **Public comment**

- Bob Maharry, Fisherman- Expressed concern that the data presented by DFG was flawed and not accurate.
  - Mr. Kalvass and the DCTF Members representing DFG restated that there were a number of caveats associated with the data.

Chris Dewees [presented an analysis of the California Dungeness crab fishery](#), and provided recommendations to the DCTF on the importance of thinking long term, setting goals, thinking incrementally, evaluating outcomes, and adjusting to management changes. During Dr.

Dewees's presentation, he discussed ways to decrease the harvest capacity of the fishery. He suggested that DCTF assess other innovative fishery management efforts worldwide and speak with individuals involved in the fishery. He said the DCTF should consider funding mechanisms for long-term entities such as cooperatives and other industry organizations. He described various tradeoffs between independence and structure of industry organizations. Dr. Dewees also provided an overview and some lessons learned regarding setting up fishing cooperatives. He stated that many groups have seen economic efficiency and cooperation from cooperatives and gave West Coast and other examples of cooperatives.

Mr. Ceppos opened the floor for comments and questions.

The group discussed the value of the live versus frozen/picked markets of crab as well as demand for the two different products. While studies have show that frozen and picked meat have a higher ex-vessel value, the group discussed the possibility of increasing demand for and value of fresh crab. The groups also discussed whether or not stretching out the Dungeness crab season would increase the value of crab.

Mr. Ceppos asked Mr. Dewees to comment on the history of the cooperatives highlighted in his presentation. Mr. Dewees pointed out that many Japanese cooperatives are more than 100 years old. In many instances, not limited to the Japanese case studies, the many cooperatives had their genesis once communities realized they had exclusive access to resources, and decided they no longer wanted to compete with each other.

### **Public Comment**

- Nick Furman, Oregon Dungeness Crab Commission – Stated that there is a national crab market, based on excess supply on the west coasts, that has expanded over the last 10 years.
- Rick Harris, Pacific Seafood – Stated that the development of section crab has been the salvation of the market and was created to meet the demands of the customer. He explained that due to the cyclical nature of crab and regardless of how many pots are deployed, unlike other crab fisheries (e.g. king and snow crab), the supply of Dungeness will never be static and will still experience gluts and down cycles. In the broader market place, king and snow crab have historically been the market form of choice. However, in the last 10 years, Dungeness crab processors have been carving a new niche into this market, and offer Dungeness crab at a reasonable price that would meet demand. Dungeness crab is now worth more than snow crab but the market needs to be maintained.
- Joe Caito, Caito Fisheries – Explained that processors can only process a certain number of pounds a day because of money and space limitations. They try to buy as much crab as they can and generally sell all the crabs that they buy. However, some years the glut is a problem since processors have to limit purchases from fishermen due to limited capacity to handle the extremely large glut.
- Rick Harris, Pacific Seafood – Stated that infrastructure currently in place can handle the glut of crab (except in extreme years). Therefore, the fishery should not be slowed down. Processors should not be required to downsize because someone in District 10 cannot

handle the glut. Cutting operations in half will cause costs to increase which will increase prices for the consumer.

- A Member explained that processors could also benefit from spreading out the season since the DCTF is only looking at knocking off the peak of the first two weeks of the fishery. He explained that decreasing the glut in the first two weeks of the season may decrease labor costs for processors and would benefit most companies. One Member stated that spreading the catch through the season may cause displeasure from all sides but everyone has to feel the pain and everyone should bend a little to improve the fishery.
  - Richard Hagel, Fisherman – Asserted that slowing down the fishery is the hardest thing to do. While he abhors weekly and daily limits, he believes that you cannot slow down the fishery without some form of a landings limit.
3. *Informational presentation and discussion – Oregon industry coordination: 1) Dungeness crab marketing commission, 2) industry perspectives on pot limits; and 3) pre-season crab negotiation*

Nick Furman gave a [presentation on the Oregon Dungeness Crab Commission \(ODCC\)](#), an industry funded commodity commission under the umbrella of the Oregon Department of Agriculture. He spoke about three main topics:

- 1) An overview of the ODCC: ODCC is 100% funded by fishermen whereby 1% of each fisherman's landings check is deducted to pay for the commission. Processors do not pay for the commission. ODCC is composed of five harvesters, two crab processors, and one public member. The ODCC does research, marketing, public events for promotion, advocacy, etc. While the primary functions of the commission used to be marketing and promotion, recently ODCC has had to shift their efforts into working on issues related to the implementation of MPAs and alternative ocean energy siting and the Territorial Sea Plan revision. ODCC does not see itself as a fishermen organization but, rather an industry organization.
- 2) Industry Perspective On Pot Limits: Mr. Furman explained that during the implementation of the pot limit program in Oregon, the ODCC did not take a position on the issue. He noted that ultimately, pot limits have not slowed down the harvest rate in Oregon and that 80% of all Dungeness crab is still landed in first few weeks of season. He believes that it may be difficult or impossible to slow down the Dungeness crab fishery.
- 3) Oregon State Supervised Price Setting Negotiation: Mr. Furman discussed the price negotiating process in Oregon. SB673, which passed in Oregon in 2003, allowed fishermen and processors to meet face to face to discuss and set a price for Dungeness crab without going to jail for Federal Anti-Trust violation. The goal of the early price setting is to get the fishery moving once the season opens and prevent fishing strikes. All parties involved in the negotiations are bound to the terms of the agreement. Mr. Furman stated that price negotiating can give stability and safety to the industry and be based on verifiable market information. He further noted that the early price negotiating program was not managed by ODCC but, rather by the state of Oregon.

Mr. Furman also discussed Oregon's marine stewardship council (MSC) certification process. He explained that the cost of certification was approximately \$150,000 and that he anticipates that Oregon Dungeness crab will be certified by May 2010. Dungeness crab is the first fishery to go through MSC certification without a stock assessment or quota. Mr. Furman noted that while MSC typically hasn't significantly raised the price of the product, Oregon wanted to be the first crustacean fishery in the world to achieve certification. There are important marketing opportunities associated with MSC certification including presence of the product in stores like WalMart and the international market. When Oregon's product goes through the market, it must go through a chain of custody to verify that the crab actually came from Oregon. Then the product may use the MSC label during sale. Mr. Furman speculated that California and Washington would likely benefit from Oregon's Dungeness crab MSC certification.

The group wondered if the Oregon trap limit enhanced Oregon's ability to get MSC certified. Mr. Furman and Mr. Kalvass speculated that the pot limit program did beneficially impact Oregon's MSC scoring by demonstrating that management of the fishery was headed toward conservation.

The group discussed whether early price setting impacted the marketing of Dungeness crab, whether individual fishermen were receiving a better price for their product with ODCC in place, the cost-benefit of marine stewardship council (MSC) certification in both California and Oregon, the impact of Oregon's price negotiations on California fishermen, as well as the role of ODCC in fisheries management and MPAs.

Mr. Ceppos asked whether there are some type of success metrics in place for ODCC to report to fishermen regarding the return on their investment in the Commission. Mr. Furman explained that fishermen are results oriented; if they do not feel they are getting their money's worth from ODCC, they can go to the legislature and disband ODCC. ODCC has been around for 20 years and has spent a lot of industry money. There are lots of things that have not worked. For every time ODCC has hit the ball over the fence, they have probably struck out twice. It is not clear if ODCC efforts directly raise ex-vessel price, or affect the volume of effort. Mr. Furman speculated that the Oregon crab fleet believes that a well communicated crab commodity group frees fishermen to allow them to fish.

#### **Public Comment**

- Bob Maharry, Fisherman- Asked Mr. Furman if the ODCC has been able to determine why opening price for Dungeness crab is the same as it was 10 years ago.
  - Mr. Furman explained that while he did not have a definite answer, he could try to offer some insight on the issue. Unlike Maine lobster, 80% of Dungeness crab is harvested during an eight week period in early Fall when there are few tourists visiting harbors. Therefore, a large amount of the catch is frozen where it becomes a commodity, rather than put into the live market. Dungeness crab is harvested during an optimal time of year, though a longer season may increase the price.

Tegan Hoffmann handed out a [document](#) from Glen Yost, California Department of Food and Agriculture, to provide the DCTF clarification on the difference between a committee, a market order, a council, and a commission. She further explained that the primary difference between the two is that at commission is a more formal body, created through the legislature, and changes through referendum. Ms. Hoffmann also distributed a document on [price posting](#).

The group discussed the idea of establishing a marketing commission versus and advisory body. Some Members explained that they did not want to reinvent the wheel and that it may not be necessary for California to have its own marketing commission. Many Members did not think that a marketing commission would create better opportunities to influence price negotiation. Some Members expressed interest in continuing the DCTF as an advisory body, and not a marketing commission.

Chris Blackburn, OPC staff, explained that the DCTF can exist through January 2011, but dedicated OPC funding may not be available after January 2010. Ms. Blackburn suggested that if the DCTF is interested in continuing its work beyond January, 2010, it should begin considering what type of body it may want. To ensure a smooth transition from the DCTF to a new advisory body, with no gap or time delay, a bill would need to be introduced into the legislative cycle no later than spring of 2010.

Members discussed the idea of creating some form of a permanent DCTF. A few Members stated that they and their constituents want nothing to do with a permanent DCTF since the current one was established against their will. Many Members stated that they would like an advisory body focused on legislative and regulatory issues rather than marketing. Others explained that they could not consider a permanent body unless the DCTF could be effective in resolving long standing disputes, and that was yet to be determined. Still, some Members believe that a DCTF advisory body is vital to the fishery. They explained that the Dungeness crab industry needs a forum that incorporates representation from throughout the state. Successful collaboration using such a body will enable the industry to address future changes related to regulation, the Marine Life Protection Act (MLPA), wave energy development, and other issues more effectively.

#### **Public Comment**

- Richard Hagel, Fisherman – Explained that Dungeness crab fisherman are going to lose their industry if they do not act now. He explained that the group's problem is their divisiveness and lack of trust of each other. He further explained that despite his cynicism, he is pleased with what he is seeing in the DCTF because the industry is coming to grips with its problems.

#### *4. Sport fishery workgroup report back on draft Management measures*

Rich Wilson, member of the Facilitation Team, introduced the work of the sport fishery workgroup. He reminded Members that at the first DCTF meeting in Eureka, the DCTF decided that there was too much for the group to discuss and get agreement on by January 2010. Therefore, they agreed that a sport fishery workgroup would be created, work in between meetings, and then present its work to the full DCTF for discussion and refinement. He

explained that the sport workgroup had diverse representation, including Members representing sport and commercial fishery interest. In addition, the workgroup modeled its efforts on the objective setting and solutions brainstorm exercises conducted during meeting 2 in San Francisco. Similar to the workgroups focused on commercial issues, the sport fishery workgroup used the straw problem statements and objectives developed by the Facilitation Team, which were based on the early project [situational analysis](#). Ben Sleeter, a Member of the sport fishery workgroup, presented a preliminary set of [refined problem statements, straw objectives, and brainstormed solutions](#) that focused on sport fishery issues, as well as commercial issues that overlapped with sport issues. Following Mr. Sleeter's presentation, Mr. Wilson opened the floor for discussion and comments on the draft sport fishery problem statements, objectives and brainstormed solutions.

*Draft Objective - By 2010, eliminate the regulatory loopholes that allow different sectors of the fishery to overlap within the same season.*

One Member stated that he had spoken to a lot of the sport fishermen. He stated that regulations should not be imposed on individuals because 1% of the community is breaking the rules. Members should address the other 99% of the sport fishery in their discussions. He further explained that this objective was brought to the table by commercial fishermen.

Members discussed whether people should be allowed to fish in both commercial and sport fisheries in the same season. The group was split on this. Some Members stated that not many fishermen hold both sport and commercial fishing licenses. Members explained that there is growing concern that commercial fishermen are cheating in the sport fishery by taking large numbers of pots out November 7th to sport fish prior to November 15th commercial opener. Members discussed whether regulations exist now that would address this issue. DFG explained that the Fish and Game Code and sport regulations are not consistent. While sport regulations prohibit fishing sport and commercial off same vessel, Fish and Game Code only states that sport and commercial fishing may is not allowed. They explained that there are gray areas in the regulations that may need to be worked out within the DFG licensing and revenue branch.

On members asked about the percentage that the sport and recreational fisheries represent as part of the entire Dungeness crab catch. DFG stated that the sport fishery represents approximately 1% of the total Dungeness crab catch. However, they noted that this is an old estimate and that there may have been a lot of growth in recent years, especially within the CPFV realm. One Member stated that CPFVs are the only group that has a self-imposed pot limit and that he did not believe CPFVs should be further regulated since they represent only a small portion of the fishery.

*Draft Objective - By 2010, regulations eliminate ghost fishing of pots.*

Members clarified that there are many different types of pots and gear used in the Dungeness crab fishery. They generally agreed that requiring rotten cottons would not be difficult to include as part of recommendations to the Legislature.

*Draft Objective - By 2010, regulations specify a pre-set time for sport crab that improves safety and effective enforcement.*



Members inquired as to whether DFG would prefer having identical seasons for rock crab and Dungeness crab, rather than closing rock crab for two weeks prior to November 7<sup>th</sup> in District 10. DFG was not certain what they could support in regard to rock crab but stated they would not be able to support an 18-hour presoak.

One Member stated that the sport fishing catch makes an impact during commercial season. He stated he would like to see a consistent one week allowance for sport fishermen prior to commercial openers in the North and the South. A Member responded saying that the sport fishing impact is low and that, to be fair, maybe three weeks early opener should be allocated to all northern and southern fishermen. There are many people violating the system. One Member stated that sport issues should be assessed on a regional basis.

*Draft objective - By the 2010 season and beyond, implement a program to collect, analyze and disseminate data on the dynamics of the sport fishery (e.g. catch rate, total catch, effort patterns and biological data).*

DFG stated that the CRFS program is in the process of adding Dungeness crab. One Member reiterated that the sport fishery should not be considered a resource issue because they represent only 1% of the total catch and have a self-imposed pot limit.

*Draft objective - By 2010, implement mechanisms that slow the commercial harvest in district 10 and allow catch throughout the whole season, thus providing added opportunities and benefits to sport interests and local communities.*

Discussion on this topic postponed until Day 2.

*Draft objective - By 2010, the harvest of female crabs is reduced; adaptive management is informed by ongoing collection, analysis and dissemination of biological data on females.*

One Member explained the objective contained two different versions of an idea that would accomplish the same goal.

*Draft objective - By 2010, regulations are clarified and minimize theft of traps owned and crab being harvested by sport fishermen.*

Members generally agreed that that some combination of information should be attached to buoys. One Member stated that is important to find a way to legally allow retrieving derelict pots.

##### *5. DCTF discussion of proposed management solutions and report back from ports / organizations*

Prior to the meeting, DCTF Members were provided with a [Conditional Management Measures Survey](#) to use in port meetings. This survey was developed by the project Facilitation Team, based on the results of DCTF workgroups conducted during meeting 3 in Ukiah. Each Member was asked to meet with their port constituents and solicit feedback on the survey questions, then be prepared to report these findings to the full DCTF at meeting 4 in Ukiah. Mr. Ceppos opened the discussion by requesting each Member share feedback received during these port discussions.

Southern ports were generally in support of a pot limit in District 10 if participants in District 10 paid for it. The full DCTF had mixed views on the structure of a pot limit program (e.g. tiered versus non-tiered and number of allowable pots). There was general support for a statewide pot limit after a regional trial. There was near unanimous agreement from all southern ports for a fair start provision for District 10, though several Members acknowledged that this idea had been removed as a negotiation option during meeting 3 in Ukiah. Most ports agreed that latent permits should be made nontransferable. In southern ports, there was little to no support for an industry buyback of latent permits or permit stacking.

The northern ports generally supported a trial pot limit program in District 10. Similar to the southern ports, Members representing northern ports reported mixed views on a tiered versus non-tiered program. Several agreed that fines or tags should be used to pay for a pot limit program. Northern ports had mixed support for a statewide pot limit. Many stated that more information on structure and cost would be needed prior to giving support for a statewide program. In addition, several Members express concern about unanswered questions as to how a pot limit program would impact latent permit holders. Some northern ports agreed that crab caught in California should be delivered in California. Some ports requested more information on fishing cooperatives.

While most ports, in both the north and the south, agreed that the definition of latent permit specified in SB 1690 should be added into Fish and Game Code, there was little agreement on what type of restrictions should be levied on latent permits. Some ports suggested making latent permits nontransferable and subject to landings limits. Others believed that no restrictions should be made on latent permits, so that opportunities remain for new entrants in the fishery. There were mixed views among DCTF Members as to whether there should be a hardship committee in place to review individual grievances associated with latent permit restrictions. Some suggested that latent permits with no vessels attached to them should be retired from the fishery.

There was little to no support across all ports for logbooks but, some mentioned that they would voluntarily provide information on the number of pots they fished during the season. Most ports requested more information about redefining vessel specifications. There was little to no support in all the ports for regulations on the size of pots or capping the total number of pots allowed in California. There was unanimous support among all ports for moving the Tri-State Fair Start line south to the California/Mexico border and for Dungeness crab fishing to be allowed in designated marine protected areas (MPAs).

As noted above, there were mixed views on the creation of a permanent Dungeness crab advisory body. Most ports were not in favor of a marketing commission but expressed tentative support for some form of a crab advisory body. While some rejected any form of advisory or marketing body altogether.

Some Members requested additional information and analysis of state landings and latent permits. They also pointed to a need to clarify whether landings in Oregon and Washington must be considered when attempting to define latent permits or implement a pot limit program.

6. *General Public Comment*

No public comment was given

7. Mr. Ceppos adjourned the meeting at 7:15 pm

**Day 2 – Oct 22<sup>nd</sup>, 2009**

7:30 am - 4:30 pm

**ATTENDEES**

**Task Force Members Present on Day 2:**

Jim Anderson, F/V Alliane	Brett Fahning, F/V Rogue
John Atkinson, F/V New Rayann	William Forkner, F/V Shirley and F/V Audrey
Geoff Bettencourt, F/V Moriah Lee	Gerry Hemmingsen, F/V Pollux
William Blue, F/V Morning Light	Paul Johnson, Monterey Fish Market
Stan Carpenter, F/V Sandy B	Chris Lawson, F/V Seaward
Bill Carvalho, Wild Planet Fisheries	Brooke McVeigh, CA Department of Fish and Game
Lawrence Collins, F/V Autumn Gale	Ben Sleeter, recreational fisherman
Michael Cunningham, F/V Sally K	Randy Smith, F/V Mistasea
Bill DeBacker, F/V She N I and F/V Jard	Don Standley, F/V Terry S and F/V One and All
Richard Young, CA Association of Harbor Masters and Port Captains	
David Bennett, Alternate for Lee Wilson, F/V Gold Coast	
David Crabbe, Alternate for Johanna Thomas, Environmental Defense Fund	
Tom Estes, Alternate for Vince Doyle, F/V Verna Jean	
Craig Goucher, F/V Second Wind, Alternate for Mike Zamboni, F/V Lucky 50	
Rick Powers, Alternate for Roger Thomas, F/V Salty Lady, Golden Gate Fishermen's Association	
Lt. Jon Wilcox, Alternate for Lt. Steve Riske, CA Department of Fish and Game	

**Absent:**

Jim Waldvogel, CA Sea Grant  
Kevin McKernan, recreational fisherman

**OPC staff present:**

Chris Blackburn  
Rachelle Fisher  
Cina Loarie  
Neal Fishman

**Facilitation Team present:**

Dave Ceppos  
Dr. Tegan Hoffmann  
Rich Wilson

8. Welcome and recap of Day 1

*Facilitation Team*

Mr. Ceppos reintroduced the Facilitation Team, gave a recap of events from day 1, and provided an overview of the modified agenda for day 2. He explained that the group would be breaking into caucuses periodically throughout the day and asked that everyone to make a good faith attempt to operate by the rules of “consensus with accountability” during these break outs and throughout the day during voting exercises. He reiterated that the Facilitation Team has designed a strategy to allow DCTF Members to move forward towards mutually acceptable solutions for the fishery, and that part of this strategy involves using a specific sequence to move towards a vote on such critical issues as the Tri-State Fair Start line, pot limits, latent permits and the potential formation of a permanent Dungeness crab advisory body.

## 9. *General public comment*

### **Public Comment**

- Richard Hagel, Fisherman- Explained that the definition of latent permits is not a “black and white issue” and reminded Members that there is a human face attached to all these permits. It is important to know: How many latent permits holders ultimately intend to fish? Has the person been active in the fishery? Is the permit attached to a legitimate boat? The individuals who have been fishing their entire lives should be allowed to continue to fish. Additionally, Mr. Hagel explained that if the group decided to put limitations on latent permits, it would be important to set up a review board.
  - One Member suggested that Mr. Hagel was not alone and asked him to try to have faith in the work of the DCTF.

## 10. *DCTF discussion of proposed management solutions*

Mr. Ceppos explained that he would like to begin the group’s discussions by discussing the protection line at Point Arena. When fishermen come down from Washington and Oregon and fish below the line at Point Arena (in District 10), they are not subject to the same fair start regulations as if they fished above the line. In previous meetings, the DCTF has discussed the possibility of moving the line at Point Arena south so that District 10 has some protection from out-of-state boats and these protections are equal to those afforded the rest of the Northern California districts. Mr. Ceppos suggested that the group continue this discussion and think about the following: 1) If the line is moved to protect District 10, what kind of protections can be afforded to the northern ports to protect them from nonresident boats? 2) How are decisions like these addressed by the Tri-state Committee? To answer the second question, Mr. Ceppos called on a few DCTF Members who have had direct experience working with the Tri-state process, to offer some insight.

A DCTF Member explained that the Tri-State Dungeness Crab Committee (Committee) is a forum for Oregon, California, and Washington to convene and talk about issues related to the Dungeness crab industry. The Committee was formed by a Memorandum of Understanding between the three states and is run by Pacific States Fisheries Management Council (PSFMC). While it has no authority to pass laws in any state, it does serve as a forum that can work collectively and cooperatively with the three states and encourage changes to the states’ Dungeness crab regulations. Two notable changes that came out of the process were the limited entry process and the tri-state preseason crab shell testing. While the Committee used to be comprised mainly of fishermen and processors, the respective fisheries agencies / departments of each state have had greater participation in recent years. One Member highlighted the importance of fishermen and other industry participation in process. Another Member suggested that the Committee could be a good venue for the DCTF to participate and introduce their ideas. Some Members suggested that the Committee would be a good place to tackle California’s concern about Oregon and Washington not implementing a fair start issue south of Point Arena.

Some Members were concerned that the Committee could not change the line at Point Arena because the fair start clause is enforced by laws within the states of Washington and Oregon. In order to change the line, it is necessary to ensure that Washington and Oregon’s laws are

consistent and uniform. Many Members agreed that a recommendation should be made by the DCTF to change the line thru the tri-state process. However, one Member mentioned that the group would need to give Oregon and Washington some sort of incentive to change the line. Still, Members agreed that if the DCTF came to the Committee with a unified voice, it would strengthen California's ability to get what it wants.

Following the discussion the Facilitation Team presented a recommendation to the DCTF. Mr. Ceppos read the [DCTF ratified charter](#) to explain and clarify voting procedures. He further explained that if a Member is to abstain from voting, then they will be encouraged to explain why they abstained.

***ACTION:** Consideration and possible adoption of conditional and final recommendations on management measures, including regional and statewide pot limits, season opener dates, limited entry and latent permits definitions, changes to sport / commercial fishing regulations, and future data needs.*

**APPROVED: Recommendation 1** was adopted- *Work through the Tri-State Committee and California state decision-makers to move the fair start line south to the California / Mexico border*

Vote of all DCTF Members (ex officio Members abstained):

Thumbs up: Atkinson, Anderson, Bettencourt, Bennett, Blue, Carpenter, Carvalho, Collins, DeBacker, Fahning, Forkner, Goucher, Hemmingsen, Johnson, Lawson, Powers, Smith.  
Thumbs Sideways: Standley, Cunningham, Sleeter  
Thumbs Down: Estes  
Absent: McKernan

Vote of the ex officio Members:

Thumbs up: Young  
Abstained: McVeigh, Wilcox  
Absent: J Thomas, Waldvogel

After the first vote, a straw poll was used to assess the level of agreement with a second recommendation. **Note: This was not a formal vote. Support shown through a straw poll does not reflect adoption of an idea.**

Straw Poll: *Work through Tri-state committee and California state decision-makers to reduce out-of-state fleet migration and address issues such as unintended consequences from out of state pot limits and Washington state buyback.* (21 thumbs up; 0 thumbs down; 0 thumbs sideways; 3 abstentions)

Mr. Ceppos explained that the group would revisit recommendation 2 for a final vote after further discussion on other topics.

Mr. Ceppos advanced the discussion to the next major topic: potential Dungeness crab pot limits in California. He explained that because there are a many emotions and opinions about pot

limits, he was going to take the DCTF incrementally through the issue, addressing related items point by point.

1. Mr. Ceppos asked if any Member was fundamentally opposed to considering some form of a District 10 pot limit. No Member was **fundamentally** opposed to considering some form of a District 10 pot limit.
2. He then asked if any Member was opposed to considering some form of a District 10 pot limit on a trial basis before other pot limits are considered in the rest of the state. Various Members stated that they would not vote on something that implies that there might be a future statewide pot limit but that beyond that, they were not opposed to conducting some form of a trial effort in District 10

Mr. Ceppos requested that someone from District 10 put out a proposal. He encouraged them to try to put something forward that not only serves the interests of District 10 but, also, something that can serve someone else's interests.

One Member proposed a pot limit in District 10, for the entire season, that would sunset in three years. He proposed that each boat would be allowed 250 traps until the northern opener, with the pot limit rising to a one size fits all of 400 total pots for each boat in District 10 after the northern opener. The program would be funded by the individuals participating in District 10 (Members referred to this as "pay to play") and costs would be developed legislatively with a target of no more than \$1 per pot tag. The Member asserted that District 10 would work with the north to put restrictions on latent permits such that they would only be allowed a 200 pot limit during the early start.

The group discussed how the program could be funded. Most agreed that a "pay to play" program would be ideal but, the group had a difficult time agreeing on the cost of a pot tag. Some believed that a pot tag should cost no more than \$1. Other Members believed that to be an unreasonable target since pot tags cost approximately \$0.90 to produce. Various Members suggested that California fishermen should not pay more for pot tags than fishermen in Oregon and Washington.

The group discussed whether DFG had the capacity and funding to support a pot limit program. A DFG representative explained that it would be unlikely for the Department to hire more enforcement staff to enforce such a program and it is not likely to add much more complexity to the enforcement that is already in place. A DFG representative explained that a pot tag program would still likely be a financial burden on the Department since they likely will not have the funds to preorder pot tags. However, they did suggest that, perhaps the group suggest something that requires people to prepay for their tags and declare their intent to fish in District 10 prior to the start of the season. Either way, the DFG representatives explained that unless a recommendation from the DCTF presented a way to cover all of the costs of a pot limit program, DFG would not be able to support it. The entire group continued discussing the possibility of fishermen preordering pot tags, as well as mechanisms to fund such a program and estimate the costs of implementation. It was generally agreed that a declaration of intent to fish in District 10 was likely not feasible since fishermen often make such decisions just before the beginning of the season after results of the pre-season crab quality test are available.

The group discussed whether they could support a tiered or “one size fits all” pot allocation approach to a pot limit program. Members agreed that they would like to further discuss this issue, along with assigning number to the pot program, with their ports. Mr. Ceppos requested an informational straw poll to assess Members’ support for either system.

#### Straw Poll

Option 1: *A tiered, pilot program in district 10, pay to play, assess costs-* (11 thumbs up; 5 thumbs down; 5 thumbs sideways; 3 abstentions)

Option 2: *A one size fits all, pilot program in district 10, pay to play, assess costs-* (9 thumbs up; 5 thumbs down; 6 thumbs sideways; 3 abstentions)

The poll showed that while the group general supports a pot program, there is no agreement on the details of the program. Many Members agreed that they needed more information on the impacts of nonresident landings on potential pot allocations within California. The group inquired as to whether they would be able to submit a report to the legislature without agreeing to the specifics of a pot limit program until a later date.

Neal Fishman, OPC staff, explained that the DCTF could sponsor a legislative proposal or spot bill that includes a provision for pot limits. The group would find an author for the bill who would be willing to not include specifics on the pot program until it is agreed upon by the DCTF. If the group is unable to decide on the specifics of the program, the author could withdraw the pot provision and allow the bill to proceed with the other recommendations agreed upon by the DCTF. Until the group agrees on the guts of the bill, there are mechanisms to prevent it from proceeding.

The Facilitation Team proposed that the DCTF will introduce a spot bill into the legislature by January 15, 2010 and clarify the pot limit provisions in the bill by March 31, 2010. Members wondered why that date was necessary. Fred Euphrat, Senator Wiggins's staff, explained that the sooner a bill gets clarity, the more likely it is to continue through the legislative cycle. Members generally agreed on the date but, some suggested that the recommendation include an “out clause” in case the group could not agree on these provisions.

Mr. Ceppos called a straw poll to assess the level of agreement with the third recommendation.

**Note: This was not a formal vote. Support shown through a straw poll does not reflect adoption of an idea.**

Straw poll- **Recommendation 2-** *DCTF proposes new crab legislation. In this legislation there would be a placeholder that includes a provision for a trial “pay to play” (paid for by participants of the District 10 fishery) pot limit program in District 10. This program will be piloted for three years, adaptively managed, and reviewed to inform future management measures. The provision must have recommendations from the DCTF by March 31, 2010 or the bill author will pull the trial pot limit in District 10 provision from the bill.*

*Recommendations will be made by the DCTF on the following issues, but not limited to:*

- *DCTF, legislature, and DFG cost analysis and estimate consistent with OR and WA management (includes administration and enforcement) costs for pot limit program*
- *Pot limit criteria and structure*

(19 thumbs up, 2 thumbs down, 0 thumbs sideways; 3 abstentions)

Mr. Ceppos explained that the group would revisit recommendation 3 later in the meeting for a final vote.

The group continued to discuss the specifics of a pot limit program including the number of the pot limit. Two proposals were presented:

Proposal 1: Beginning November 15, there will be a tiered limit of 200 and 150 pots. Then, on December 1, or whenever the north opens, the limit will be increased to 400 and 300 pots.

Proposal 2: Beginning November 15, there will be a “one size fits all” limit of 250. Then, on December 1, or whenever the north opens, the limit will be increased to 400.

The group discussed how a high tier and low tier system would be determined for a pot limit program. Some Members suggested using the same designations in Senate Bill 1690 to define the tier system. One Member pointed out that the crab catch from north to south is different and that a pot program in California would not have results consistent with Oregon and Washington due to this disparity. Many lower tier Members felt that while the group needs to examine a tiered structure, the structure of the DCTF is not a legitimate structure to use since statewide, there are more lower tier boats than upper tier boats however the DCTF is structured such that high and low tier representatives are essentially equal even though the numbers of their constituents are not.

The DCTF discussed what landings a tier system would be based on (statewide, District 10 only, or west coast wide). The group was unclear as to whether a District 10 only pot limit would need to consider out of state landings as per the Magnuson Stevens Fishery Conservation and Management Act. Many Members explained that they would like to see permit holders’ landings in Oregon and Washington before they can decide whether they would approve a tiered pot limit system. Various Members from the north agreed that they would not support a tiered pot limit program if tiers were based solely on District 10 landings.

**Public Comment:**

- Bob Maharry, Fisherman- Explained that the group has never considered the catch history from Santa Cruz south. With a tiered system, everyone below Santa Cruz would have a low tier pot limit. Mr. Maharry stated that the individuals south of Santa Cruz are afraid that they will “fall through the cracks” during DCTF decision-making.

*11. Convene DCTF port and organizational caucuses and/or workgroups for refinement and discussion of proposed management measures (including sport fishery)*

During the lunch hour, the group convened several caucuses to discuss and refine the proposed management options.



## *12. DCTF discussion of proposed management solutions*

Upon the return from the lunch break and extensive caucusing, some of the northern DCTF representatives came back to the group and presented the following proposal: A 400 pot cap on pots in District 10, “pay to play,” a cap of 100 pots on latent permits, and a 2 year sunset. This pilot program could be used to keep working on a possible statewide pot limit.

Many Members agreed that while this proposal may not decrease the number of pots in the water, it would create a mechanism to monitor how many pots go into the water in District 10. It would allow District 10 to cap the number of pots in the water while still allowing fishermen from the north to fish competitively. Conversely, one Member explained that the recommendation did not solve the group’s objectives or slow effort in District 10. Still, various Members from District 10 agreed that while this proposal was not perfect, it would be tolerable and would educate future management decisions. Some Members generally approved of the recommendation but felt that a goal of 100 pots for latent permits seemed too low and suggested, perhaps, a 200 pot cap for latent permit holders.

Mr. Ceppos called a straw poll to assess the level of agreement with the fourth recommendation. **Note: This was not a formal vote. Support shown through a straw poll does not reflect adoption of an idea.**

- Straw poll- “To shop to the ports”- *Pilot test a “pay to play” (paid for by participants of District 10 fishery) pot limit program in District 10. This program will be piloted for three years, adaptively managed, and reviewed to inform future management measures. The pilot pot limit program will have a 400 pot limit cap and a 100-200 pot limit on latent permits. (18 thumbs up, 1 thumbs down, 2 thumbs sideways; 3 abstentions)*

The Member who voted thumbs down mentioned that he would be more inclined to support the proposal if it did not include restrictions on latent permits.

The group discussed the possibility of holding a formal vote right now. Five Members mentioned that if they had to vote on Recommendation 4 right now, they would vote “thumbs down.” Many Members felt more comfortable voting on the proposal after they had the ability to bring it back to their ports. The facilitation team suggested that the group postpone the final vote until Members had the opportunity to bring it back to their ports for feedback. The group discussed the logistics of having a teleconference meeting in the near future to have a final vote on recommendation 4. The DCTF project support team explained that they would look into the logistics of holding such a meeting.

Mr. Ceppos returned to Recommendation 3 and requested a final vote.

***ACTION:*** *Consideration and possible adoption of conditional and final recommendations on management measures, including regional and statewide pot limits, season opener dates, limited entry and latent permits definitions, changes to sport / commercial fishing regulations, and future data needs.*

**APPROVED: Recommendation 2** was adopted- *DCTF proposes new crab legislation. In this legislation there would be a placeholder that includes a provision for a trial “pay to play” (paid for by participants of the District 10 fishery) pot limit program in District 10. This program will be piloted for three years, adaptively managed, and reviewed to inform future management measures. The provision must have recommendations from the DCTF by March 31, 2010 or the bill author will pull the trial pot limit in District 10 provision from the bill.*

*Recommendations will be made by the DCTF on the following issues, but not limited to:*

- *DCTF, legislature, and DFG cost analysis and estimate consistent with OR and WA management (includes administration and enforcement) costs for pot limit program*
- *Pot limit criteria and structure*

Vote of all DCTF Members (ex officio Members abstained):

Thumbs up: Atkinson, Anderson, Bettencourt, Bennett, Blue, Carpenter, Carvalho, Collins, DeBacker, Estes, Fahning, Forkner, Goucher, Hemmingsen, Johnson, Lawson, Smith, Standley

Thumbs Sideways: Powers

Thumbs Down: Cunningham, Sleeter

Abstained: McVeigh, Wilcox, Young

Absent: McKernan

Vote of the ex officio Members:

Thumbs up: Young

Abstained: McVeigh, Wilcox

Absent: J Thomas, Waldvogel,

### *13. General public comment*

- Troy Gardner, Fisherman- Believes that port representatives have forgotten about the fact that one third of their constituents are latent permit holders. He explained that representatives should also serve the interests of their latent permit constituents.

### *14. DCTF discussion of proposed management solutions*

The group discussed latent permit transferability, the use of a hardship committee, the definition of latent permits, and mechanisms to restrict latent permits. There was a great deal of confusion as to what constituted a latent permit (i.e. Whether legally, California would need to account for a vessel's West Coast wide landings when determining whether a permit is latent). Additionally, various Members agreed that if a fisherman intends to use his permit, rather than sell it for a profit, then they should be allowed to stay in the fishery. Many Members explained that the biggest concern is the potential for an inactive permit to become a large producer in the future. Before they would consider restriction on latent permits various Members requested the following information:

- Using the control date established in SB1690, how many latent permits are there in the fishery?

- Using the same criteria above, and adding tri-state landings, how many latent permits are there?
- What is a latent permit's fishing potential (based on the size of the vessel)?

Regarding all this, the group concluded that without interpretation from the California Attorney General's (AG) office (similar to interpretations by the Oregon and Washington AGs) on whether any changes to California management would require the consideration of tri-state landings, rather than just California landings alone, it is infeasible for them to address and recommend next steps on how to deal with latent permits. It was suggested that they craft a specific question for the California AG.

***ACTION:** Consideration and possible adoption of conditional and final recommendations on management measures, including regional and statewide pot limits, season opener dates, limited entry and latent permits definitions, changes to sport / commercial fishing regulations, and future data needs.*

**APPROVED: Recommendation 3** was adopted - *Ask California Attorney General to read and assess Magnuson-Stevens Fishery Conservation and Management Act sections 112 and 203 and determine whether the State of California can determine the rights of a California permit holder based solely on California landings without taking into consideration landings generated in other states. These rights may include but are not limited to limited entry and pot limits.*

Vote of all DCTF Members (ex officio Members abstained):

Thumbs up: Atkinson, Anderson, Bettencourt, Bennett, Blue, Carpenter, Carvalho, Cunningham, DeBacker, Estes, Fahning, Forkner, Goucher, Hemmingsen, Johnson, Lawson, Powers, Sleeter, Smith, Standley  
 Abstained: McVeigh, Wilcox, Young  
 Absent: McKernan

Vote of the ex officio Members:

Thumbs up: Young  
 Abstained: McVeigh, Wilcox  
 Absent: J Thomas, Waldvogel,

The group further discussed the definition of latent permits and whether or not to change the control date established in SB1690. One Member proposed changing the control date from November 15, 2003 to November 15, 2002. Mr. Ceppos called a straw poll to assess the level of agreement with the fourth recommendation. **Note: This was not a formal vote. Support shown through a straw poll does not reflect adoption of an idea.**

Straw poll- *Amend section 8276 of DFG code by changing the date November 15, 2003 to November 15, 2002.* (1 thumb up; 16 thumbs down; 1 thumb sideways; 3 abstentions)

Following that straw vote the group sought to confirm the definition of limited entry and potential recommendations regarding latent permits. Therefore, the group conducted the following action.

**ACTION:** Consideration and possible adoption of conditional and final recommendations on management measures, including regional and statewide pot limits, season opener dates, limited entry and latent permits definitions, changes to sport / commercial fishing regulations, and future data needs.

**APPROVED: Recommendation 4** was adopted- Make permanent the language of SB1690 related to limited entry (see below) and by March 31, 2010 the DCTF will provide additional recommendations related to potential limitations of latent permits.

*Fish and Game Code Section 8276.4 (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 permitholder who landed less than 5,000 pounds between November 15, 2003, and July 15, 2008, inclusive.*

Vote of all DCTF Members (ex officio Members abstained):

Thumbs up: Atkinson, Anderson, Bettencourt, Bennett, Blue, Carpenter, Carvalho, DeBacker, Estes, Fahning, Forkner, Goucher, Hemmingsen, Johnson, Lawson, Powers, Sleeter, Smith

Thumbs Down: Cunningham, Standley

Abstained: McVeigh, Wilcox, Young

Absent: McKernan

Vote of the ex officio Members:

Thumbs up: Young

Abstained: McVeigh, Wilcox

Absent: J Thomas, Waldvogel

**ACTION:** Consideration and possible adoption of a recommendation to create a Dungeness crab marketing commission

**No action was taken**

**ACTION:** Consideration and possible adoption of a recommendation to create a permanent Dungeness crab advisory committee

**No action was taken**

A consolidated summary of the votes made at this meeting are available on the [DCTF webpage](#)

15. Mr. Ceppos adjourned the meeting at 5:00pm