



~California Dungeness Crab Task Force~

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

DCTF MEETING 6 UKIAH, CALIFORNIA JUNE 28, 2010 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 the DCTF Meeting #6 held in Ukiah, California on June 28, 2010

9:30 a.m. to 5:00 p.m.

ATTENDEES

Jim Anderson, F/V Alliane

John Atkinson, F/V New Rayann

Geoff Bettencourt, F/V Moriah Lee

William Blue, F/V Morning Light

Stan Carpenter, F/V Sandy B

Bill Carvalho, Wild Planet Fisheries

Lawrence Collins, F/V Autumn Gale

Michael Cunningham, F/V Sally K

Bill DeBacker, F/V She N I and F/V Jard

Vince Doyle, F/V Verna Jean

David Crabbe, Alternate for Johanna Thomas, Environmental Defense Fund

Rick Powers, Alternate for Roger Thomas, F/V Salty Lady, Golden Gate Fishermen's Association

Lt. Dennis McKiver, Alternate for Lt. Steve Riske, CA Department of Fish and Game

Brett Fahning, F/V Rogue

William Forkner, F/V Shirley and F/V Audrey

Gerry Hemmingsen, F/V Pollux

Chris Lawson, F/V Seaward

Peter Kalvas, CA Department of Fish and Game

Carrie Pomeroy, CA Sea Grant

Randy Smith, F/V Mistasea

Don Standley, F/V Terry S and F/V One and All

Lee Wilson, F/V Gold Coast

Mike Zamboni, F/V Lucky 50

Absent:

Paul Johnson, Monterey Fish Market

Kevin McKernan, recreational fisherman

Ben Sleeter, recreational fisherman

Richard Young, California Association of Harbor Masters and Port Captain

DCTF support staff present:

Neal Fishman, Ocean Protection Council

Rachelle Fisher, Independent Consultant

Monday June 28th, 2010 - 9:30am to 5:00pm

1. *Welcome, introductions, agenda review, and DCTF updates*

Rachelle Fisher welcomed everyone to the meeting and introduced the rest of the DCTF support staff- Neal Fishman. Ms. Fisher explained that the CSU Sacramento's Center for Collaborative Policy and TC Hoffmann and Associates, LLC would no longer be supporting the DCTF and would not be facilitating the day's the meeting. Ms. Fisher explained that the meeting would be recorded (via a voice recorder). However, as

allowed by the Bagley-Keene Open Meetings Act, all recordings will be deleted 30 days after the meeting.

Ms. Fisher explained that since the meeting was shorter than previous DCTF meetings, and there was a lot to be discussed, she requested the group's cooperation. Ms. Fisher reminded all attendees that this is a working meeting of the DCTF and that there would be opportunity for public involvement but, that the DCTF gets priority during discussions.

Ms. Fisher reviewed the agenda then, asked all Members and public participants to introduce themselves.

Mr. Fishman then described the meeting's agenda.

- 2. Discussion of Dungeness crab fishery legislation. Discussion may include, but will not be limited to, pot limits, limited entry, latent permits, additional management measures, a hardship review committee, and data needs. DCTF port and organizational caucuses and/or workgroups may be convened to refine and discuss proposed management measures*

Neal Fishman gave a brief background on the history of [Senate Bill 1093](#). Mr. Fishman explained that the bill is going to a committee hearing the following day and, if passed, would move on to the Appropriations Committee, the Senate Floor, and to the Governor by August or September. He explained that the goal of this meeting is to determine whether or not the DCTF would be willing to sponsor SB1093 and if they would like to see any amendments made to the bill.

Mr. Fishman acknowledged that Sonke Mastrup and other members of the California Department of Fish and Game's (DFG) enforcement and biological departments were present to answer the DCTF's questions. He noted that the DFG representatives would not be speaking directly to the bill and expressed his appreciation in their attending the meeting.

Mr. Fishman walked through the bill line by line and asked the DCTF to discuss it.

Section 8276.2 of Fish and Game Code (SB1093 Section 1)

Mr. Fishman explained that section 1 of SB1093 that refers to crab quality testing and asked if there was any discussion. A DCTF Member explained that even though there was no language requiring compensation for the boats used in the crab quality testing program, he believed that the language was fair since it left some discretion to the Director of DFG.

Section 8276.4 of Fish and Game Code (SB1093 Section 2)

Mr. Fishman explained that section 2 of SB1093 refers to the continuation of the DCTF through 2014. He welcomed discussion on this topic by the DCTF. Ms. Fisher explained that extending the sunset date of the DCTF could be discussed later in the meeting, after the DCTF had an opportunity to discuss how they envisioned the DCTF moving forward. The group agreed.

Section 8276.4.h of Fish and Game Code (SB1093 Section 2, subdivision h)

Mr. Fishman discussed section 2, subdivision (h) and explained that the latent permit language is already existing law however, a new paragraph (§8276.4.h.3) was added to link “latent permits” to the pot limit program. One Member suggested adding “California landings” to the language to specify that only California landing should be used. Various other Members agreed that “California” should be added so that there was less ambiguity as to the type of landings that would be considered in this section. Another Member suggested adding “California” before every instance in the bill where landings are mentioned. Mr. Fishman requested a formal vote on the topic:

***ACTION:** Consideration and possible adoption of recommendations to support, support with amendments, or oppose Dungeness crab legislation*

APPROVED: Recommendation 1- The DCTF requests that the term “California” be inserted before each mention of “landings” in section 2 of SB1093 (§8276.4).

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

Thumbs up (19): Atkinson, Anderson, Bettencourt, Blue, Carpenter, Carvalho, Collins, Cunningham, DeBacker, Doyle, Fahning, Forkner, Hemmingsen, Lawson, Smith, Standley, Powers, Wilson, Zamboni

Absent: Johnson, McKernan, Sleeter, Young

Vote of the ex officio Members:

Thumbs up: Crabbe Kalvas, McKiver

Abstained: Pomeroy

Visit the DCTF webpage to view the formal amendment language submitted to the legislature:

http://www.opc.ca.gov/webmaster/ftp/project_pages/dctf/DCTF_SB1093amends.pdf

Section 8276.4.h of Fish and Game Code (SB1093 Section 2, subdivision h)

A Member requested clarification on who SB1093 gave regulatory authority to. It is not clear whether the director of DFG or the Fish and Game Commission has the authority to make regulatory decisions. The group agreed that the trap limit program should be a cooperative program between the director of DFG and the DCTF.

ACTION: Consideration and possible adoption of recommendations to support, support with amendments, or oppose Dungeness crab legislation

APPROVED: Recommendation 2- The DCTF recommends striking “or it is rendered inoperative by commission regulations” from section 2, subsection (i) of SB1093.

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

Thumbs up (17): Atkinson, Anderson, Blue, Carpenter, Carvalho, Collins, Cunningham, DeBacker, Doyle, Fahning, Forkner, Hemmingsen, Lawson, Smith, Standley, Powers, Wilson, Zamboni

Thumbs sideways (1): Bettencourt

Absent: Johnson, McKernan, Sleeter, Young

Vote of the ex officio Members:

Thumbs up: Crabbe

Abstained: Kalvas, McKiver, Pomeroy

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Section 8276.5 of Fish and Game Code (SB1093 Section 3)

Section 8276.5.a of Fish and Game Code (SB1093 Section 3, subdivision a)

Mr. Fishman discussed section 3, subsection (a) and explained that by saying that the director “may” institute a pilot trap limit program for California permits, SB1093 is a permissive bill. He explained that using “may” instead of “shall” is courteous to DFG and would also provide DFG with flexibility in case there are budget shortfalls or other constraints that may make it impractical to implement such a program. He further explained that using “shall” instead of “may” could be detrimental to the passage of the bill.

Members expressed concern about allowing the bill to be permissive. One Member explained DFG could veto the bill if they did not want to implement the program and felt that this language might keep the bill alive. However, he wanted asked if there language could be added to ensure that the program would be implemented. Many Members agreed that it will be important to work out the details of the trap program cooperatively with DFG and the permissive language would allow them to do so. Members discussed whether or not using the term “shall” would be the difference between a veto and a passage.

Mr. Mastrup explained that he would not speak to the bill, but spoke about the idea of forcing an agency such as DFG to implement a new program. He explained that any agency would be concerned about agreeing to implement a

program that is not fully developed. However, he believes that DFG would be amenable to a trap program as long as it is workable.

Members discussed the possibility of getting the commercial fishery “boxed in” to an undesirable program if: 1) DFG is given too much flexibility and; 2) if the bill is amended as it moved through committee. Mr. Fishman explained that section 3, subdivision (b) should prevent the first concern since it maintains that the trap limit program would not be implemented without approval from the DCTF. Teresa Shilling, Senator Wiggins’s staff, further explained that Senator Wiggins is committed to ensuring that SB1093 is the vision of the DCTF and will not amend it without the support of the DCTF.

Public Comment:

- Tommy Ancona, Fisherman- Explained that SB1093 is not a complete bill and that a lot of things need to be worked out and added to the framework of the program. However, he advised that if DCTF wants to “chisel [the details of the trap program] in stone,” it could “come back to haunt us.”

Members agreed that they could live with the current language of section 3, subsection (a) (i.e. the use of “may” instead of “shall”) and suggested that the DCTF move on to another section.

Section 8276.5.a.1 of Fish and Game Code (SB1093 Section 3, subdivision a, paragraph 1)

Members wanted to know how DFG felt about a seven-tier trap limit program. Mr. Mastrup could not speak directly to the bill but explained that when considering any new program DFG’s primary concern is with the resource. He further explained that the higher the complexity of the program, the higher the costs to DFG. One Member countered Mr. Mastrup’s explanation stating that, as far as enforcement is concerned, the number of tiers in a program should not make enforcement more complex if compliance is based solely on whether or not a trap has a tag on it or not.

One Member explained that he and his port constituents were not comfortable with the seven-tier program and would like to revisit the structure of the trap limit program. Another Member explained that people in his port were happy with the seven-tier program since they believed their historical fishing effort would not be negatively impacted. Other Members expressed concern that district 10 and the southern ports would be disproportionately allocated fewer traps than the rest of the coast. Various Members explained that their constituents were unhappy with the program until it was thoroughly explained to them. They suggested that changing the trap allocation framework should not be revisited. Mr. Fishman explained that section 3, subdivision (b) contains language that allows the DCTF to revisit the trap tier allocations before the program is implemented so, the seven-tier framework is not set in stone.

Members requested that DFG release information showing where each permit stands under this seven-tier program so that fishermen can fully assess what their individual allocations look like. Ms. Fisher explained that this data request was made following the February 2010 DCTF meeting but, that DFG ran into legal and confidentiality constraints and therefore could not release the data. However, a representative from DFG explained he would share the “tier break points” with the DCTF following this meeting to give permit holders an idea of where they stand. However, the data will be compiled in a manner such that the data could be attributed to any individual.

The DCTF revisited out-of-state landings and whether there is legal justification to not include them in SB1093. Despite the recommendation being made in their January 15, 2010 report, the DCTF still has not received a response from the California Attorney General’s office as to whether out-of-state landings can legally be excluded from California’s trap limit program.

Some Members explained that there had been precedents set in other states that out-of-state landings should be considered in California’s program. Other Members explained that in other California programs, such as the Dungeness crab limited entry program, the precedent has been set that out-of-state landings do not need to be considered.

DCTF Members asked if DFG would be comfortable not considering out-of-state landings in a trap limit program. Mr. Mastrup explained DFG’s jurisdiction is only in California and that the only landings records DFG uses is California landings receipts.

Various Members expressed concern that if out-of-state landings were factored into the trap limit program, fishermen who fish exclusively in California would be negatively impacted by being allocated fewer traps. Therefore, some Members suggested adding language that allowed the number of permits in each tier to be more elastic. For example, the initial trap allocations would be based on California landings then, out-of-state landings could be factored in. As out-of-state landings are introduced, a permit with out-of-state landings could be placed in its respective tier without bumping other permits out of their initial pot allocations.

One Member did not believe it was necessary to include out-of-state landings into the California trap limit program since he felt it was more important to protect California fishermen. One Member disagreed and expressed concern that dual permit holders with out-of-state landings would sue California if they are unable to use their out-of-state landings in the trap allocations. Another Member agreed stating that he had heard a lot of talk in Oregon and Washington about suing California if SB1093 passes.

Mr. Mastrup explained to the DCTF that when developing a new regulatory program, the DCTF must consider the costs of litigation since those costs will be added to the costs of operating the program.

Mr. Fishman asked the group if they were ready to support the structure of the trap limit program as written but with amendments to ensure that only California landings as recorded on landings receipts (associated with California permits) would be used when allocating crab traps.

One Member suggested to the DCTF that they keep the current trap limit framework and, if there are concerns down the road, the DCTF can meet again to address those concerns. Various Members agreed and suggested the following amendments:

- The term “permit(s)” be used in place of every mention of “permitholders” in sections 2 and 3 of SB1093 and that “California” be inserted before every mention of “permit(s).” The DCTF agreed that it is important to be clear that the program and its framework will be based on and tied to only California permits and landings. Various Members agreed that the program should not consider nonresident permits or the landings associated with those permits nor should it consider “L” numbers. The DCTF believed that the intent had always been to only consider landings made in California under a California permit and for the sake of time requested that the amendment be approved without a formal vote.
- Add clarifying language to section 3, subdivision (a), paragraph (1), subparagraphs (F) and (G) to ensure that any one who is not latent does not fall into the latent permit category. The DCTF believed that this was the original intent. In order to use the meeting time efficiently, the DCTF requested that this amendment be approved without a formal vote. DCTF Members unanimously agreed.

ACTION: *Consideration and possible adoption of recommendations to support, support with amendments, or oppose Dungeness crab legislation*

APPROVED: Recommendation 3- The DCTF supports the general framework of section 3 subdivision (a) of SB1093 (§8276.5.a) but recommends that: 1) all mention of “vessels” or “permitholders” be replaced with “California permits”; 2) the trap allocations will be based on “California landings” as determined by California landing receipts.

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

Thumbs up (18): Atkinson, Anderson, Bettencourt, Blue, Carpenter, Carvalho, Collins, Cunningham, DeBacker, Doyle, Fahning, Forkner, Hemmingsen, Lawson, Smith, Standley, Powers, Wilson

Abstain (1): Zamboni

Absent: Johnson, McKernan, Sleeter, Young

Vote of the ex officio Members:

Thumbs up: Crabbe

Abstained: Kalvas, McKiver, Pomeroy

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http://www.opc.ca.gov/webmaster/ftp/project_pages/dctf/DCTF_SB1093amends.pdf

Section 8276.5.a.3 of Fish and Game Code (SB1093 Section 3, subdivision a, paragraph 3)

Many Members of the DCTF did not support the idea of a hardship review committee that was composed of DCTF members. They believed it would put each of them in a difficult position and suggested alternative ideas for membership of the hardship review committee including industry advisors, professional arbitrators, or the director of DFG.

Mr. Mastrup explained that hardship review boards can be difficult and get very emotional. He explained that the Fish and Game Commission struggled with this issue on the permits it authorizes. Due to the legal issues that have ensued they now have circuit judges to review cases. With this format, each appeal generally costs between \$20,000-\$30,000 per appeal. He explained that this could be another option for the DCTF to consider.

Various Members expressed interest requiring a judge to hear each case since it would be impersonal and impartial. Another Member explained that individuals should pay for their own appeal process in order to discourage lawsuits, which would increase the costs of the trap limit program.

Mr. Fishman asked if the DCTF would like a formal vote. A DCTF Member motioned for a vote.

***ACTION:** Consideration and possible adoption of recommendations to support, support with amendments, or oppose Dungeness crab legislation*

APPROVED: Recommendation 4- The DCTF recommends striking section 3, subsection (a), paragraph (1) and supports adding new language requiring that all appeals go to a judge and that each appeal must be paid for by the appellant.

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

Thumbs up (19): Atkinson, Anderson, Bettencourt, Blue, Carpenter, Carvalho, Collins, Cunningham, DeBacker, Doyle, Fahning, Forkner, Hemmingsen, Lawson, Smith, Standley, Powers, Wilson, Zamboni

Absent: Johnson, McKernan, Sleeter, Young

Vote of the ex officio Members:

Thumbs up: Crabbe

Abstained: Kalvas, McKiver, Pomeroy

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The DCTF discussed the idea of setting criteria for hardship review. Due to time constraints and the complexity of the discussion, various Members suggested that the criteria be worked on at a later date in cooperation with DFG.

Section 8276.5.a.4 of Fish and Game Code (SB1093 Section 3, subdivision a, paragraph 4)

The DCTF discussed extending the pilot trap limit program. Teresa Shilling explained that, if passed, SB1093 will not go into effect until 2011. Following its passage, DFG would have to work out a lot of things (e.g. ordering trap tags, developing administration of the program), which would make a two-year program very difficult. One Member estimated that it would take the fleet and DFG two to four years to get the details of the program completely worked out. He suggested extending the program to four years. A couple of Members suggested that the program be extended for three years to allow time to monitor the program, get comfortable with it, and make adjustments as needed.

One Member asked Mr. Mastrup how DFG felt about pilot programs in general. Mr. Mastrup explained that it takes time to work the bugs out of these programs. He explained that DFG believes in adaptive approaches rather than pilot programs so that the money and resources spent to develop such large-scale programs are not wasted after two years. He reminded the group that litigation alone may take two years and that five years after implementation California's restricted access program was still being worked out.

The DCTF discussed the feasibility of maintaining the two-year program duration and amending the Fish and Game code §8276.5.a.4 in a year to extend the program past two years. Various Members explained that getting legislation in a timely manner to amend the program could be extremely difficult and decided after further discussion, to take a formal vote to extend the pilot trap program to three years instead of two years. Mr. Fishman reminded the DCTF that if they wanted to extend the trap program, they should consider extending the DCTF (by amending §8276.4) also so that the DCTF would be in operation for one year after the pilot program is over. Various Members agreed with the suggestion. A Member of the DCTF moved that the DCTF take a formal vote to extend the pilot program and the DCTF.

ACTION: *Consideration and possible adoption of recommendations to support, support with amendments, or oppose Dungeness crab legislation*

APPROVED: Recommendation 5- The DCTF recommends extending the pilot trap limit program to 3 years unless extended further by the DCTF following implementation. The DCTF also recommends extending the date sunset date of the Dungeness crab task force from 2014 to 2015.

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

Thumbs up (19): Atkinson, Anderson, Bettencourt, Blue, Carpenter, Carvalho, Collins, Cunningham, DeBacker, Doyle, Fahning, Forkner, Hemmingsen, Lawson, Smith, Standley, Powers, Wilson, Zamboni

Absent: Johnson, McKernan, Sleeter, Young

Vote of the ex officio Members:

Thumbs up: Crabbe

Abstained: Kalvas, McKiver, Pomeroy

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Section 8276.5.a.5 of Fish and Game Code (SB1093 Section 3, subdivision a, paragraph 5)

The DCTF discussed section 3, subsection (a), paragraph (5) and general enforcement of the trap limit program. Mr. Fishman explained that enforcement of any new program can be very expensive and asked how the DCTF felt about the fact that SB1093 does not require DFG to expand enforcement to include this trap program.

One Member asked DFG whether a new program could be added into DFG without increasing enforcement costs. A DFG enforcement representative explained that if no funding were available for enforcement of a new program, then there would not be any increased or extra enforcement. However, during their regular routines, DFG wardens could do some program enforcement.

One Member explained that the industry is concerned about the price of the trap tags. He explained that if the cost of the tags is more than \$1 to \$2 then, there would be a lot of resistance to support the program. A Member of DFG calculated the costs of a trap tag to be around \$1.33 without additional enforcement while a Member of the DCTF calculated \$2 per tag.

Section 8276.5.a.2.B of Fish and Game Code (SB1093 Section 3, subdivision a, paragraph 6)

The DCTF discussed the trap limit monitoring program as mentioned in section 3, subdivision (a), paragraph (2), subparagraph (B) and section 3, subdivision (a), paragraph (6). One Member explained that it is important to determine what

monitoring looks like. This included creating a structure for monitoring, goals for the program, etc. The Member asked whether monitoring should be addressed in more detail in the bill. Mr. Fishman explained that it may not be a good idea to be too specific about what monitoring looks like. Ms. Fisher explained that deciding on goals for the monitoring program is not urgent since in the DCTF's second legislative report, the DCTF approved various objectives including reducing and capping the amount of gear in the water. These objectives can be viewed as preliminary goals of the trap limit program and can be incorporated into the initial monitoring plan.

Members discussed the need to add "side boards" to the monitoring program to provide an overview of what things should be monitored and how monitoring will be structured. Some Members wanted language in the bill to frame monitoring while others felt that it would be important to keep the monitoring plan vague so that it could be worked out later. The DCTF agreed not to add "side boards" to SB1093 and to work out a monitoring program at a later date.

Mr. Mastrup discussed the idea of monitoring programs and explained that monitoring alone will not do much. It is important to understand how the program worked or how livelihoods were impacted, for example. In addition to monitoring, it is important that some form of reporting of the monitoring program is completed. Reporting ensures that analyses are performed that will illustrate the outcomes of the program. The DCTF generally agreed with Mr. Mastrup and suggested changing language in Section 3, subdivision b, paragraph 6 to substitute "monitor" for "report on."

***ACTION:** Consideration and possible adoption of recommendations to support, support with amendments, or oppose Dungeness crab legislation*

APPROVED: Recommendation 6- The DCTF recommends striking "monitoring" from section 3, subdivision (b), paragraph 6 of SB1093 and replacing it with "report on."

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

Thumbs up (17): Atkinson, Anderson, Blue, Carpenter, Carvalho, Collins, Cunningham, DeBacker, Doyle, Fahning, Forkner, Hemmingsen, Lawson, Smith, Standley, Powers, Wilson

Absent: Bettencourt, Johnson, McKernan, Sleeter, Young, Zamboni

Vote of the ex officio Members:

Thumbs up: Crabbe, McKiver

Abstained: Kalvas, Pomeroy

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Section 8276.5.b of Fish and Game Code (SB1093 Section 3, subdivision b)

Mr. Fishman discussed section 3, subdivision (b) and explained that this section gives DFG and the DCTF the flexibility to cooperatively modify the details of the trap limit program but, that those modifications would not be implemented without at least two-thirds approval of the DCTF. He explained that many of the details of the trap program set forth in SB1093, including the seven tiers, would not be set in stone and could be modified with approval from two-thirds of the DCTF. As currently written, the framework of the trap limit program described in SB1093 is merely a guide that can be changed after the bill is passed. This clause not only gives DFG flexibility to work with DCTF on a mutually acceptable program but, also give the DCTF the ability to change the trap limit framework later if they decide they are not happy with it. The section gives the DCTF the flexibility to rethink and revisit almost any detail of the trap limit program.

He further explained the implications of section 3, subdivision (b) by stating that by including this section in the bill, the DCTF is not only subject to the Bagley-Keene Open Meetings Act (as it has been since its establishment) but, this section converts the DCTF into an official decision making body. Therefore, Members would be required to fill out a Form 700 every year. He explained that the Form 700 requires individuals to disclose all earnings including any gifts or investments and is standard procedure for government employees and bodies. He mentioned that there are fines and penalties for not filling out the form and asked the DCTF if they were comfortable disclosing these things. If not, it might be necessary to investigate an alternative role for the DCTF in this bill.

Fred Euphrat, Senator Wiggins staff, suggested that if DCTF Members were not comfortable with a Form 700, they could change the wording of section 3, subdivision (b) to say that the DCTF would provide recommendations to the director of DFG. Various Members did not support Mr. Euphrat's suggestion since DFG would not be required to act upon the DCTF's decisions. One Member explained that filling out the form should not be a big deal as long as everyone is honest. He explained that this section of the bill would give the DCTF some power and some teeth.

Members agreed not to modify section 3, subsection (b) at the present time.

3. Discussion of DCTF's future functioning capacity and a possible administrative restructuring of the DCTF

Mr. Fishman explained to the DCTF that as the bill moves through the legislature, it is likely that there will be minor amendments to the bill. He explained that it would not be possible for the DCTF to convene each time the bill is amended or the legislature has questions due to the size of the group and Open Meetings Act restrictions. Therefore, he suggested that the DCTF form a sort of executive committee or smaller workgroup of individuals who could be contacted when such issues arise. Ms. Fisher reminded the

group that this executive committee could only function as a workgroup and could not be vested with the decision-making power of the entire DCTF. For example, the executive committee could not propose major amendments to SB1093 on behalf of the DCTF without the approval of two-thirds of the DCTF. However, they could provide direction to the legislature or DFG, for example, about the intent of the DCTF, phrasing of bill language, and similar issues.

Teresa Shilling, Senator Wiggins staff, explained that it would be helpful to have a smaller sort of workgroup that they could defer to after the bill goes through its various committees when “on the fly” amendments arise. For example, it would be helpful to be able to go to this smaller group to inquire as to whether a seemingly small amendment will violate the intent of the DCTF and greatly change the trap limit program.

One Member suggested that instead of an executive committee, Ms. Fisher or the OPC could send emails out to DCTF Members when issues arise to solicit votes. Ms. Fisher explained that she or the OPC could send out email updates but, that no one can solicit votes on these questions by the legislature because that would constitute a violation of the Open Meetings Act. She reminded the group that all official business of the DCTF must be done in a public forum. She further explained that various Members had previously requested that the DCTF support team help the DCTF form such a committee so that interested Members could comment on the bill as it is amended.

The DCTF discussed the viability of an executive committee and offered alternatives to such a committee. Various Members explained that such a committee would be important to keep the bill moving through the legislative process and ensure that the intent of the DCTF is maintained. One Member explained that it is important to get as much decided at the current DCTF meeting as possible so that the executive committee has enough information to understand what the DCTF can and cannot support. He explained that the executive committee would only comment on minor amendments.

Bill Carvahlo, Larry Collins, Mike Cunningham, Vince Doyle, and Brett Fahning were nominated by various Members to serve on the executive committee. There were no objections. Various Members moved to have a final vote on the issue.

***ACTION:** Consideration and possible adoption of a DCTF executive committee and/or amend the DCTF charter (approved September 2009) to restructure the administration of the DCTF*

APPROVED: Administrative Vote- Five Members of the DCTF, Bill Carvahlo, Larry Collins, Mike Cunningham, Vince Doyle, and Brett Fahning, will comprise the DCTF executive committee.

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

Thumbs up (18): Atkinson, Anderson, Bettencourt, Blue, Carpenter, Carvalho, Collins, Cunningham, DeBacker, Doyle, Fahning, Forkner, Hemmingsen, Lawson, Smith, Standley, Powers, Wilson

Abstain(1): Zamboni

Absent: Johnson, McKernan, Sleeter, Young

Vote of the ex officio Members:

Thumbs up: Crabbe

Abstained: Kalvas, McKiver, Pomeroy

4. *Discussion of Dungeness crab fishery legislation. Discussion may include, but will not be limited to, pot limits, limited entry, latent permits, additional management measures, a hardship review committee, and data needs. DCTF port and organizational caucuses and/or workgroups may be convened to refine and discuss proposed management measures*

Ms. Fisher explained to the group that some Members had expressed concern that recommendation 1 from the DCTF's January 15, 2010 report was not included in SB1093. The recommendation says "Work through the Tri-state committee and California state decision-makers to move the fair start line, which is currently at the northern edge of District 10, south to California/Mexico Border." She explained that it appears that this item was left out of the bill by mistake. However, before any language is added to the bill regarding this matter, it is important to discuss what route the DCTF would like to take to fulfill this recommendation. Ms. Fisher explained that in order to fully move the tri-state fair start line to the California/Mexico border, not only does California Fish and Game code need to be amended but, Oregon and Washington's laws also need to be amended. She explained that this can happen in two ways:

- 1) SB1093 can contain language that amends California Fish and Game code and then California can work through the Tri-State Committee to ask Oregon and Washington to amend their laws so that they agree with California's. Or
- 2) Amend California law after reaching an agreement in the Tri-State Committee.

Ms. Fisher reminded the group that the Tri-State Committee merely facilitates communication between the three states and that agreements made in the committee are not legally binding. She also warned the group that Oregon and Washington may not comply with California's request especially if district 10 does not want to participate in crab quality testing.

One Member inquired as to whether district 10 would be required to participate in crab quality testing if the fair start line was moved. Ms. Fisher explained that it is unclear and would depend on the discussions in the Tri-State Committee.

One Member explained that it is important to think through this issue thoroughly and understand the recourse for both the northern and southern fishermen before jumping to changing California laws.

Public Comment:

- Tom Estes, Fisherman- Explained that he does not think that Washington will be open to this request. He explained by moving the line, it will unfairly penalize dual

permitholders. Additionally, if Oregon and Washington refuse to comply, only California residents with dual permits are going to be penalized.

- One Member suggested that the line be moved to the California/Oregon border as an alternative. He explained that currently, there are no restrictions south of Pt Arena for out-of-state vessels and that by moving the line north it would even the playing field so that out-of-state vessels would have no restrictions throughout the state. Mr. Estes agreed that the other states would likely approve of this idea but, it is not in the best interest of California fishermen.

One Member suggested changing the DCTF's recommendation to move the fair start line to the California/Mexico boarder and suggested a fair start for the entire state so that Oregon and Washington boats have a 30-day fair start regardless of where they fish in California. He believed that this would not only benefit district 10 but, also Crescent City. Ms. Fisher explained that there currently is a fair start clause that includes district 10 during a delay in the northern openers. One Member agreed but stated that this regulation only protects district 10 one year out of every five. Another Member explained that it is important to create a law that spreads effort throughout the state so that out-of-state boats do not have an incentive to put pressure on one district and then leave.

Many Members stated that moving the fair start line by changing only California law, California fishermen would be the only ones impacted by the change. California fishermen would be subjected to a fair start while Oregon and Washington would have no restrictions. Various Members believed moving the fair start line would hurt the California fleet while having zero effect on out-of-state boats. For example, violation of the fair start law would only cause California permits to be revoked and would have no impact on Oregon and Washington permits.

Another Member stated that he did not believe Oregon and Washington would be willing to work with California on this issue since there would be no incentive for those states and it would penalize their resident boats. Other Members explained that the law would be extremely difficult to enforce. Other Members explained that the effort shift between states was a fact of life and something that each person needed to deal with.

One Member stated that the DCTF appeared to be "up against a wall" with this issue. He explained that district 10 will likely see some positive changes and some "relief" once the trap limit program is implemented. He suggested that the group take "baby steps" and assess the impacts of the trap limit program before working on the tri-state fair start line.

Mr. Fishman explained that the legislature as already requested that SB1093 be amended to say that moving the tri-state fair start line will be explored. Mr. Fishman and Ms. Fisher suggested that since this is not an issue the DCTF can agree on at this meeting, they should table the conversation on this issue until the next DCTF meeting. DCTF Members generally agreed to move forward with the agenda.

During the day's discussions, it was revealed that the bill is silent on penalties for noncompliance as well as what constitutes noncompliance. A DCTF Member suggested that adding language requiring that all tags be attached to the first buoy would satisfy the definition of noncompliance. Various Members agreed. The DCTF then discussed penalties.

A representative from DFG explained that noncompliance would likely be labeled as a misdemeanor unless otherwise specified in the bill. Many Members felt that there should be stronger penalties to discourage violations. Members proposed various penalties for noncompliance including:

- First violation would constitute a \$1,000 fine. Second violation would constitute a \$2,000 fine. Third violation would constitute a loss of permit.
- First violation would constitute a loss of permit.
- A fisherman would lose up to 10% of his/her allocated tags before any violation occurs.
- First violation, the permit would be suspended for 1 year. Second violation, the permit would be suspended for two years.
- First violation would constitute a \$20,000 fine. Second violation would constitute a suspension of permit for one year.

The DCTF explained that no matter what regulations are in place there needs to be tolerances built in so that an individual is not penalized for losing a tag due to unforeseen circumstances such as a storm. One Member explained that it does not seem fair that someone should lose a permit because they lost one tag out of 250 tags. Ms. Fisher explained that Oregon and Washington have mechanisms in place to handle these issues and suggested the DCTF look to those programs for guidance. One Member agreed and suggested that the DCTF speak with Oregon and Washington before committing to regulations. Another Member suggested adding language to SB1093 stating that fines and penalties will be worked out by the DCTF at a later date.

Members discussed whether or not language should be added to the bill in regards to regulations, fines, and penalties or if they should be worked out after the bill is passed. A representative from DFG mentioned that penalties and fines defined in statute are stronger than those established in Title 14. However, once something is in statute, it is very difficult to change. Therefore, rather than rush into language, it may be best to work these details out in the regulatory process. Mr. Mastrup explained that a hardship review or decision-making body will likely not make penalties so strict that they take away an individual's livelihood. Therefore, if the DCTF would like tough penalties for violators, Title 14 is not the appropriate route. Mr. Fishman reminded the group that as the bill is written, the DCTF has veto authority over any sort of regulations DFG may come up with. Therefore, language could be added giving the director of DFG the authority to promulgate regulations.

Various Members suggested that the DCTF look to Oregon and Washington's programs to determine penalties and fines before anything is put into statute. One Member

explained that Oregon has a zero tolerance policy so, the DCTF should think hard about looking to Oregon.

Mr. Fishman explained that the DCTF did not necessarily need to decide these penalties immediately.

Ms. Shilling explained that there will be an Assembly Water, Parks, and Wildlife Committee meeting June 29, 2010 in Sacramento. She explained that everyone was welcome and urged to attend the hearing. She suggested that the DCTF send letters of support to Senator Wiggins and their Assemblymembers to continue to show that the DCTF is a unified voice for the industry. Ms. Shilling further explained that it would be helpful if the DCTF voted to sponsor SB1093 at the current meeting.

One DCTF moved to support SB1093 with the suggested amendments.

***ACTION:** Consideration and possible adoption of recommendations to support, support with amendments, or oppose Dungeness crab legislation*

APPROVED: Recommendation 7- The DCTF supports Senate Bill 1093 as amended at the June 28, 2010 Dungeness crab task force meeting.

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

Thumbs up (16): Atkinson, Anderson, Blue, Carpenter, Carvalho, Collins, Cunningham, DeBacker, Doyle, Fahning, Forkner, Hemmingsen, Lawson, Smith, Standley, Wilson

Sideways(1): Bettencourt

Abstain (1): Zamboni

Absent: Johnson, McKernan, Powers, Sleeter, Young

Vote of the ex officio Members:

Thumbs up: Crabbe

Abstained: Kalvas, McKiver

Absent: Pomeroy

Visit the DCTF webpage to view the formal amendment language submitted to the legislature:

http://www.opc.ca.gov/webmaster/ftp/project_pages/dctf/DCTF_SB1093amends.pdf

5. *Discussion of DCTF's future functioning capacity and a possible administrative restructuring of the DCTF*

Mr. Fishman explained that the DCTF is currently in existence until January 1, 2011. If SB1093 gets passed and the DCTF is extended, it will be important to determine how the DCTF will function administratively. The OPC currently has limited funds and, therefore, provided limited support for the current DCTF meeting. All Members were required to pay for their own travel costs and no professional facilitation team was

provided to support the meeting. Therefore, the DCTF discussed whether or not they wanted to continue to function in this manner or if they were interested in investigating other administrative options for the DCTF.

One Member explained that even though time and travel is expensive, he believed that the DCTF was worth supporting. He suggested that if travel was a burden to some Members, they could consult their constituents and local associations to help with travel costs. The Member further explained that whether or not state funding is available for the DCTF, it is important to continue the DCTF in order to retain a controlling interest in the Dungeness crab industry.

Ms. Fisher asked DFG, given the state's budget constraints and OPC's inability to cover travel costs, if they would be able to continue providing staff to attend the DCTF meetings. Mr. Mastrup stated that the answer to this question is solely dependent on the California state budget.

One Member asked the DCTF whether or not it would be a good idea to look for money to pay for a higher budget operation that could fund a professional facilitation team and Member travel rather than expecting the DCTF Members to pay for their own travel costs. Various Members agreed that while a higher budget operation would be nice, the current low-budget framework was sufficient. They explained that they were happy with Mr. Fishman and Ms. Fisher facilitating the meeting and would like to continue in this manner. The DCTF asked whether or not the OPC would continue to provide administrative support to the DCTF.

Mr. Fishman explained that until there is a state budget in place, it is impossible to know how much support OPC can provide to the DCTF. However, he believes that when there is budget in place that the Coastal Conservancy/OPC will put in a minimal amount of money to pay for support staff for the DCTF. He was confident, given how much progress the DCTF had made that the OPC would be willing to provide at least some minimal support.

The DCTF agreed that they would like to continue to convene on the current small budget with OPC providing administrative support as they did at the current meeting.

6. Discussion of the DCTF's next steps

Members highlighted a number of issues that need to be discussed at future DCTF meetings including:

- Deciding how much the industry is willing to pay for each trap tag.
- How membership of the DCTF will change if the DCTF continues (i.e. how replacements will be selected or elected to the DCTF).
- How the trap limit program can be adaptively managed.
- If the program is adaptively managed, how program adaptations be created through future legislation?

Mr. Mastrup mentioned that the DCTF's enabling legislation highlighted a number of objectives that the DCTF had not yet addressed. One Member explained that many of those issues were already discussed by the DCTF, but the DCTF did not prioritize them as issues that needed to be immediately addressed. Another Member stated that it did not make sense for the DCTF who is largely composed of commercial fishermen to decide regulations for sport fishermen. Therefore, he did not believe sport issues were something that would be revisited. Mr. Fishman and Ms. Fisher explained that the objectives in the bill would be addressed at future DCTF meetings but, will be prioritized by the DCTF.

Ms. Fisher will send an email to Members of the executive committee to coordinate the committee and get them moving.

Ms. Shilling will send periodic emails to all DCTF Members and those who signed in at the meeting with updates as SB1093 moves through the legislature.

Ms. Fisher explained that the official announcement of the next DCTF meeting will come from Ms. Fisher or an OPC staff member.

7. The DCTF support team adjourned the meeting at 3:30pm.

Note: Public Comment was taken throughout the meeting. Members of the public participated in all meeting discussions.