



~California Dungeness Crab Task Force~

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

REPORT

TO: Joint Committee on Fisheries and Aquaculture, Mike McGuire, Chair
California Fish and Game Commission, Eric Sklar, Chair
California Department of Fish and Wildlife, Charlton Bonham, Director

CC: California Ocean Protection Council, Deborah Halberstadt, Executive Director
California Fish and Game Commission, Valerie Termini, Executive Director
California Fish and Game Commission, Susan Ashcraft, Marine Advisor
California Department of Fish and Wildlife, Craig Shuman, Marine Region Manager
Pacific States Marine Fisheries Commission, Dave Colpo, Sr. Program Manager

FROM: California Dungeness Crab Task Force

DATE: December 20, 2017

RE: October 2017 recommendations from the California Dungeness Crab Task Force as requested in SB 369 (Fish and Game Code 8276.4)

APPENDICES: (1) [Senate Bill 369](#)
(2) [January 15, 2016 Interim Report](#)
(3) [January 13, 2017 Final Report](#)
(4) [Tri-State Dungeness Crab Commission Memorandum of Understanding \(MOU\)](#)
(5) [DCTF Membership List](#)
(6) [DCTF Charter- October 2014](#)
(7) [Summary of DCTF Votes from October 16-18, 2017 meeting](#)
(8) [DCTF Meeting Summary from October 16-18, 2017 meeting](#)
(9) [October 16, 2017- Presentation to the DCTF- Dungeness Crab Fishery Season Updates: 2016-17](#)
(10) [Senate Bill 1287](#)
(11) [2017-18 Best Fishing Practices Guide](#)
(12) [Dungeness Crab Fishing Gear Working Group Fact Sheet](#)
(13) [Draft Risk Assessment and Mitigation Program \(RAMP\): Voluntary Pilot, 2017-18 CA Dungeness Crab Fishing Season](#)
(14) [Assembly Bill 164- Claims Against the State: Payment](#)
(15) [2017-2018 Commercial Dungeness Crab Fishery - Frequently Asked Questions](#)

This report provides recommendations from the California Dungeness Crab Task Force (DCTF) to the Joint Committee on Fisheries and Aquaculture (the Legislature), the California Department of Fish and Wildlife (the Department), and the Fish and Game Commission (the Commission) to inform future Dungeness crab fishery management. The report includes an update on the DCTF's activities since January 2017, and more specifically, recommendations to address Fish and Game code sections that will sunset in 2019.

The DCTF's work was completed pursuant to Senate Bill (SB) 369 (Evans, 2011) ([Appendix 1](#)) with financial support from The Nature Conservancy. The Ocean Protection Council (OPC) supported the

administration of the DCTF from March 2012 until January 2017 through the authorization of approximately \$215,000 from the California Coastal Protection Fund of 2006. As of the drafting of this report, administration of the DCTF is being supported by The Nature Conservancy until the Department can allocate funds from the Dungeness Crab Account to support the DCTF from January 2018 until its current sunset in 2019 (see Recommendation 2 from [Appendix 3](#) for additional details).

Additional information, including DCTF history, previous reports, and meeting summaries with details on the development of the recommendations provided in this report, is available on the DCTF webpage: <http://www.opc.ca.gov/2009/04/dungeness-crab-task-force/>.

BACKGROUND

The commercial Dungeness crab fishery is one of the most valuable and productive fisheries in California^{1,2} with an average ex-vessel value³ of approximately \$68.9 million per calendar year.⁴ This is in large part due to strong demand by consumers, including international markets. The California Dungeness crab fishery has faced unprecedented events (e.g. elevated levels of domoic acid, whale entanglements) recently that have caused a need to reevaluate the fishery's management in order to maintain the health of the fishery, safeguard its economic viability, minimize ecological impacts, and preserve the California fishing communities that rely on the resource.

Management of the California Commercial Dungeness Crab Fishery

The California Dungeness crab commercial fishery is managed by the Department pursuant to California Fish and Game Code Section 8275 *et seq*, which requires the fishery to use a 3-S management strategy (sex, size, and season). Commercial harvest is restricted to male crabs, greater than 6.25 inches carapace (body) width, from mid-November through the end of June (Central Management Area⁵) and December 1 through July 15 (Northern Management Area). The 3-S management strategy is generally considered to be successful in maintaining the crab population because males have the opportunity to mate several times before reaching legal size, females are protected from commercial harvest, and the fishing season avoids both the soft-shell and primary breeding period. The California Fish and Game Code specifies the opening of the season for the Central Management Area (the area between in Sonoma-Mendocino county line and the Mexican border) as November 15 and the Northern Management Area (the area between in Sonoma-Mendocino county line and the Oregon border) as December 1.⁶ Additionally, in 1995 a limited entry program⁷ was implemented to limit the total number of permits in the fishery. In 2016-17, there were 558 permits, of which 467 were active and

¹ Hackett, Steven, D. King, D. Hansen and E. Price. 2009. *The Economic Structure of California's Commercial Fisheries*. Technical Report . California Department of Fish and Game, Sacramento.

<http://www.dfg.ca.gov/marine/economicstructure.asp>

² The Dungeness crab fishery is an important contributor to the economy of several port communities such as Crescent City (Pomeroy, C., et al. 2010. Pomeroy, C., et al. (2011). *California's North Coast Fishing Communities: Historical Perspective and Recent Trends*. California Sea Grant Technical Report T-072,. La Jolla, CA: 350p.

<http://www.csgc.ucsd.edu/EXTENSION/ADVISORS/Pomeroy.html>

³ Ex-vessel value is the amount paid to fishermen when they land (deliver) their catch to buyers the docks.

⁴ Pers. communication C. Juhasz, California Department of Fish and Wildlife.

http://www.opc.ca.gov/webmaster/ftp/project_pages/dctf/meeting-6/dctfp-eval-presentation.pdf

⁵ The Central Management Area refers to all coastal districts south of the Mendocino/Sonoma County Line to the Mexican border.

⁶ Preseason crab quality testing is used to predict the meat recovery rate prior to the season opener. A recovery rate of 25% is required for the December 1 season opener in the Northern Management Area. If this standard is not met, testing is repeated at specific time intervals until this recovery rate is achieved, with the fishery opening no later than January 15, regardless of test results at that time. Requirements for preseason testing do not apply in the Central Management Area.

⁷ A limited entry program is a management strategy that restricts the number of participants in a fishery.

91 were inactive (or “latent”⁸ referring to those permits (vessels) with landings of less than 200lbs in the previous season).

In contrast to the commercial fishery, the Dungeness crab recreational fishery is managed by the Commission, with measures such as a specified season, daily bag limits, and minimum size requirements. The specifics of the regulations vary by region and by sport fishing mode (i.e. private vessel versus shore-based fishing versus CPFVs). CPFVs are the only sport fishing mode that has a trap limit program.

Tri-State Coastal Dungeness Crab Committee & West Coast Management of the Fishery

In 1996, the Tri-State Dungeness Crab Agreement was established through a MOU between the Pacific States Marine Fisheries Commission (PSMFC) and Washington, Oregon, and California to facilitate communication and cooperation between the states in managing their Dungeness crab fisheries (see [Appendix 4](#) for MOU). Most notably, this agreement established preseason crab quality testing from the Washington-British Columbia border to the Mendocino/Sonoma County Line in California. Through the Tri-State Coastal Dungeness Crab Committee the three states have discussed and aligned management of Dungeness crab fisheries in their respective states including coordinating fair start clauses⁹ and season openers to the extent possible.

The Oregon and Washington Dungeness crab fisheries are also high-value fisheries. In contrast to the California commercial fishery, where management authority resides with the Legislature, the Oregon and Washington commercial fisheries for Dungeness crab are managed by their respective Fish and Wildlife Commissions. Historically, Oregon and Washington fisheries have experienced trends similar to those in the California fishery, including the presence of inactive permits, large numbers of traps in the water, and a derby dynamic that causes a large proportion of a fishery’s landings to be made in a short period at the beginning of the season with landings declining sharply thereafter. In an effort to address these issues and distribute fishing throughout the season, the Washington Department of Fish and Wildlife (WDFW) established a tiered Dungeness crab trap limit system in 1999. The Oregon Department of Fish and Wildlife (ODFW) followed suit in 2006 by establishing a trap limit program modeled after Washington’s system. At a 2009 DCTF meeting, WDFW and ODFW staff explained that while the trap limit programs have capped the amount of gear in the water, there is no evidence of a significant reduction in the derby dynamic of the fishery.

Current Management Issues

In recent years, the California Dungeness crab fishery has faced a number of new challenges that have required the DCTF to re-evaluate the fishery’s management.

Domoic Acid, Economic Hardships: The 2015-16 and 2016-17 fishing seasons were delayed due to elevated levels of domoic acid in California Dungeness crab samples. As a result of the 2015-2016 delay, fishery participants and fishing communities experienced substantial financial hardship, prompting the National Oceanographic and Atmospheric Administration (NOAA) to declare a federal fishery disaster in early 2017¹⁰. The Department reported nearly 50% of the five-year average was landed during the 2015-16 Dungeness crab fishing season. Many commercial fishermen,

⁸ The Department does not use the term “latent” permit(s) formally. The definition of latent was developed by the DCTF.

⁹ Fair start provisions mandate that anyone fishing in the Central Management area must wait 30 days after the delayed northern opener (i.e. Northern Management area, Oregon, or Washington) to fish in those northern waters.

¹⁰ NOAA Press Release. *Commerce Secretary Pritzker declares fisheries disasters for nine West Coast species*. 18 Jan 2017. <http://www.noaa.gov/news/commerce-secretary-pritzker-declares-fisheries-disasters-for-nine-west-coast-species>

including DCTF members, indicated that despite the moderate landings, markets never recovered, adding to the hardship experienced by the fishery.

Domoic Acid, Fishing Pressure: Recent elevated levels of domoic acid have also resulted in changes to traditional season openers. During the 2015-16 and 2016-17 fishing seasons, instead of opening by management areas (see section titled “*California Management of the Fishery*”), smaller areas were opened as they were deemed “safe” by the California Department of Public Health (CDPH) and the Office of Environmental Health Hazard Assessment (OEHHA). Feedback from the fleet indicated that these “partial” openers caused confusion about how to implement fair start clauses (see Recommendation 8) and hindered some fishermen’s ability to make business decisions about when and where to fish. Some fishermen also indicated that these smaller area openers placed additional fishing pressure on those smaller areas.

Whale Entanglements: The National Marine Fisheries Service (NMFS) indicated a record number of whales entangled in West Coast Dungeness crab fishing gear¹¹. As a result, the Department, in collaboration with NMFS and the OPC convened a Working Group¹² in 2014 involving commercial fishermen (including two DCTF Members), environmental organizations, whale researchers, and state and federal agencies to help address this issue ([Appendix 12](#)). The Working Group has made progress over the past two years and is piloting a risk assessment and mitigation program during the 2017-18 fishing season (see [Appendix 13](#) and Recommendation 14). The Center for Biological Diversity filed a lawsuit on October 3, 2017 against the Department regarding entanglements in California Dungeness crab fishing gear. While 2017 entanglements were lower than historic highs in 2015 and 2016, there is general industry agreement that steps need to be taken to reduce whale entanglements in Dungeness crab fishing gear and address circumstances when entanglement risk is elevated.

Sunsetting Fish and Game Code: A number of Fish and Game code sections specific to the management of the commercial California Dungeness crab fishery will sunset in 2019. During the October 16-18, 2017 meeting, the DCTF focused its efforts on identifying the sunset code sections that should be reauthorized, eliminated, or amended to support the Legislature’s fishery management efforts (see Recommendations 2-9).

Members of the Dungeness crab industry continue to address these issues and others as they arise (e.g., lost fishing gear recovery program, commercial Dungeness crab trap limit program, etc). The fishery consists of a diverse group of individuals, communities, viewpoints, and opinions regarding the management goals and objectives for the California Dungeness crab fishery generally vary by production level, vessel size, and homeport location.^{13,14} This makes it challenging at times for fishery participants to reach agreements. Nonetheless, the DCTF continues to reach agreements and forward recommendations to fisheries managers and those with decision-making authority. The DCTF looks forward to continuing this work and informing

¹¹ NOAA. 2016 *West Coast Entanglement Summary*. March 2017.

http://www.westcoast.fisheries.noaa.gov/publications/protected_species/marine_mammals/cetaceans/wcr_2016_whale_entanglements_3-26-17_final.pdf

¹² For more information about the Dungeness Crab Fishing Gear Working Group visit <http://www.opc.ca.gov/whale-entanglement-working-group/>

¹³ Dewees, C.M. et al. 2004. Racing for crabs: Cost and management options evaluated in Dungeness crab fishery. *California Agriculture*. Vol. 58(4): 186-193.

¹⁴ Pomeroy, C., et al. 2010. California's North Coast Fishing Communities: Historical Perspective and Recent Trends. California Sea Grant Technical Report T-072. La Jolla, CA: 350p. <http://www-csge.ucsd.edu/EXTENSION/ADVISORS/Pomeroy.html>.

the Legislature, the Department, and the Commission on the outcomes of their discussions regarding the issues above and others as they arise.

DCTF PROCESS AND PROCEDURES

The DCTF's operating and voting procedures are described in [SB 369](#) and the [DCTF Charter](#). SB 369 mandated the DCTF be composed of 27 members, including 17 members representing commercial fishing interests, two members representing sport fishing interests, two members representing crab processing interests, one member representing commercial passenger fishing vessel (CPFV) interests, two members representing nongovernmental organization interests, one member representing Sea Grant, and two members representing the Department.

The DCTF Charter was developed and ratified by the DCTF in September 2009 and amended in March 2012 and April 2014. The DCTF Charter establishes ground rules, member roles, and voting procedures for the group. In keeping with those procedures and in response to the Legislature's request for management recommendations, the DCTF Charter states that, "a proposed recommendation that receives an affirmative vote of at least 15 of the voting members of the DCTF may be transmitted ... [and] shall be considered to be the consensus of the task force, and shall be considered to be evidence of consensus in the Dungeness crab industry." The following voting protocol, described in the DCTF Charter, was used to conduct straw polls and final voting on DCTF recommendations:

- **Thumbs Down:** I do not agree with the proposal. I feel the need to block its adoption and propose an alternative.
- **Thumbs Sideways:** I can accept the proposal although I do not necessarily support it.
- **Thumbs Up:** I think this proposal is the best choice of the options available to us.
- **Abstention:** At times, a pending decision may be infeasible for a Member to weigh in on.

Thumbs up and thumbs sideways are *both* counted as affirmative votes in determining whether a recommendation has the required 15-vote majority.

DCTF VOTES AND ANALYSIS

The following recommendations were developed by the DCTF over the course of one meeting held on October 16-18, 2017. The recommendations represent agreements of DCTF members (as per voting protocols defined in the DCTF Charter ([Appendix 6](#)); however, in some cases they are not the *verbatim* language used when the votes were taken. Because of the iterative nature of the conversations at the DCTF meetings, the language of some of the recommendations has been adjusted to improve clarity. The verbatim language, together with the voting record is included in [Appendix 7](#) for reference. Some recommendations are grouped together for clarity. Explanatory notes are provided below recommendations when necessary.

DCTF RECOMMENDATIONS- October 16-18, 2017

Sunsetting Fish and Game Code: General

A number of Fish and Game code sections related to the Dungeness crab fishery will be inoperative as of April 1, 2019 and repealed as of January 1, 2020. As the Legislature is considering these code sections, the

DCTF provided recommendations that are intended to serve as guidance on the code sections to reauthorize, repeal, or amend.

Recommendation 1- The DCTF recommends reauthorizing all sunset code sections without changes, except as specified in the following DCTF recommendation and as outlined in Recommendations 2-9 in this report.

- The sunset date on Fish and Game code sections including, but not limited to, 8276.2, 8276.3, 8276.4, 8276.5, 8279.1, 8280.2, 8280.3, 8280.4, 8280.6, and 9002.5, should be extended to 2029.
- Fish and Game Code Sections 8280.1 and 8280.5 should be eliminated as they may no longer be relevant since the limited entry program has been in place for two decades.
- Additional actions related to sunset code sections taken by the DCTF during its October 2017 meeting are recommended to be updated as outlined in additional votes below.

The DCTF will continue its charge to review Dungeness crab fishery regulations and will continue to recommend modifications to those sections as need arises.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
19	1	0	0	2

NOTES:

In order to maintain law and order in the California Dungeness crab fishery, the DCTF requests the Legislature reauthorize all Fish and Game code sections and extend their sunset date ten years, with some exceptions. Fish and Game Code Sections 8280.1 and 8280.5, which relate to the implementation of the limited entry program that has been in place for more than two decades, should be repealed in order to clean up the code as they may no longer be needed. The DCTF recommends the Legislative Counsel provide legal perspective on whether this change would result in any unforeseen impacts prior to their deletion. Fish and Game code sections 8280.2, 8280.4, and 8280.6 should be reauthorized without change. Those code sections discussed in subsequent recommendations in this report including 8276.2, 8276.3, 8276.4, 8276.5, 8279.1, 8280.3, and 9002.5 would benefit from amendments to update and improve clarity as described in the subsequent recommendations.

Sunsetting Fish and Game Code: Vessel Length

SB 369 mandates that the DCTF discuss refining commercial Dungeness crab management.

Recommendation 2 attempts to address regulatory clarification needs identified by the Department prior to reauthorize the sunset code.

Recommendation 2- The DCTF recommends clarifying the definition of “length overall” in Fish and Game Code section 8280.3 to be defined as the horizontal distance between the forward-most and aft-most points on the hull. Attachments fixed to the stern and bow are not included in this measurement.

In an effort to establish consistent Department records of the measurement of all vessels in the commercial Dungeness crab fleet, the DCTF recommends all permit holders submit a recent vessel

survey with the standard definition of “length overall” as defined above to the Department by March 31, 2020. In cases where a survey indicates a smaller vessel than is documented on the permit, the previously documented length would be maintained on that permit. Should an individual choose not to submit a survey by March 31, 2020 the original vessel length on file will be assumed to be the “length overall” and all future transfers and sales associated with the permit will be based on that measurement.

The DCTF also recommends that a survey by a licensed marine surveyor be required at the time of a vessel sale as well as at the time of permit transfer. Vessels associated with a permit should continue to only be allowed a one-time increase of a maximum of five feet in length (per Fish and Game code section 8280.3(e)) for permit transfers and vessel sales.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
18	1	0	0	3

NOTES:

Fish and Game code section 8280.3 restricts the size vessel that a permit may be transferred to based on the documented size of the vessel in 1995 (when limited entry was implemented in the fishery). Conversations with the Department have indicated issues with this regulation, as a standardized measurement of vessel length was not provided on all permits at the time the law was enacted. Complicating things further is the fact that permit transfers now require all vessels to be measured using a “length overall” measurement (per Fish and Game code section 8280.3). However, there is nothing in the Fish and Game code defining what the “length overall” measurement is, leaving the interpretation up to the surveyor measuring the vessel.

Despite the complications associated with this regulation, the DCTF generally believes vessel length restrictions are necessary to maintain the structure of the fleet and reduce the risk of overcapitalization. In an attempt to address the Department’s need for a standard definition of “length overall”, the DCTF recommends adding the definition described in the above recommendation to the Fish and Game code. To address the Department’s need to establish standardized vessel length measurements on all permits, the DCTF recommends all permit holders submit updated documentation on their vessels prior to March 31, 2020. In the event that a permit holder does not update their documentation, the length on file will be assumed to be the vessel’s “length overall.” All future transfers and sales will be based on the 2020 documented length.

Fish and Game code section 8280.3 restricts vessel length changes for permit transfers, but is silent on vessel length changes for permit sales when the same vessel is part of the sale. The practice of lengthening a vessel beyond the allowed, one-time 5 ft increase and then offering that vessel for sale without a vessel-to-vessel permit transfer involved is called sponsoning. As long as a permit is not being transferred, there is nothing in the regulations that prohibits a permit holder from infinitely lengthening or sponsoning the permitted vessel. The DCTF generally believes this lack of specificity is in conflict with the intent to restrict vessel lengths on permit transfers and recommends the same restrictions be placed on vessels during permit sales to eliminate the practice of sponsoning.

Sunseting Fish and Game Code: Continuation of the DCTF

As the 2019 sunset of the DCTF approaches, the DCTF discussed the need for a permanent advisory committee (as also mandated in SB 369) and recommendations to improve the organization’s structure and

function. Recommendations 3-7 reflect the outcomes of the discussion about this topic. Additional recommendations on this topic were included in the January 2017 report ([Appendix 3](#)) and are included on page 14 of this report.

Recommendation 3- The DCTF recommends extending Fish and Game Code sections 8276.4 and 8276.5. The DCTF recommends authorizing the allocation of \$150,000 dollars per year from the Dungeness Crab Account to the OPC to support the administration and facilitation of the DCTF through 2029.

The DCTF recommends the Department provide the DCTF with an annual review of the Dungeness Crab Account.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
19	0	1	0	2

NOTES:

In the January 2016 report ([Appendix 2](#)), the DCTF expressed support for reauthorizing and continuing the DCTF beyond 2019. In keeping with the DCTF’s current function, this body would continue to act as a platform for the industry to collaborate and work with managers, regulators, and decision-makers on Dungeness crab fishery management issues. To fund the DCTF beyond 2019, the DCTF recommends amending Fish and Game code 8276.4 to allocate \$150,000 per year from the Dungeness Crab Account (see Fish and Game code section 8276.5) to support the organization’s activities. The DCTF believes \$150,000 per year will allow the body to continue operating in a fashion that allows it to address its priorities (see January 2017: Recommendation 4, page 14 of this report and [Appendix 3](#)).

The DCTF believes the request to use funds from the Dungeness Crab Account is reasonable considering an October 2015 presentation from the Department indicating a large surplus in the Dungeness Crab Account at that time.¹⁵ Since that presentation, the Department has indicated that expenses to operate the commercial trap limit program are close to the annual allocation of the Account. An updated detailed accounting of the uses of the fund had not been provided to the DCTF since October 2016¹⁶ and were not available at the DCTF’s 2017 meeting. The DCTF appreciates that the Department must use the Account to cover costs to administer the commercial Dungeness crab trap limit program and continues to recommend full vetting and annual reporting of the use of Dungeness Crab Account as required by Fish and Game Code Section 8276.5(a) to ensure transparency of the account’s use (see January 2017: Recommendation 1, page 15 below and [Appendix 3](#)). The Department has indicated plans to allocate approximately \$70,000 from the account to cover the DCTF’s operating costs from January 2018 until it sunsets in 2019. During the drafting of this report following the DCTF’s meeting, the Department shared the latest accounting through FY 2016-17, which indicates a balance of \$2.8 million.¹⁷ This recommendation is further informed by the fact that a hold

¹⁵ California Department of Fish and Wildlife. 2015. Updates Summary of Fishery Landings 2014-15 Season & 19 Monitoring Evaluation Dungeness Crab Trap Limit Program (DCTLP). Presentation to the California Dungeness Crab Task Force. Ukiah, CA. October 2015. http://www.opc.ca.gov/webmaster/ftp/project_pages/dctf/meeting-5/CDFWData_DCTF%20Meeting_Oct262015-2.pdf

¹⁶ Juhasz, C., and C. Pomeroy. 2016. Preliminary Evaluation of the Dungeness Crab Trap Limit Program (DCTLP). Presentation to the California Dungeness Crab Task Force. Ukiah, CA. October 2016. http://www.opc.ca.gov/webmaster/ftp/project_pages/dctf/meeting-6/dctlp-eval-presentation-updated.pdf

¹⁷ CDFW Trap Limit Program Department Accounting, December 5 2017 <http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=152063&inline>

for \$517,225 was placed on the Dungeness Crab Account (Fish and Game Code Section 8276.5) as a result of AB 164 ([Appendix 14](#)) to cover the costs of a lawsuit (Marilley v. McCammon). Since a judge ruled in favor of the Department on the lawsuit¹⁸ and the funds are no longer needed to settle the litigation, the hold should be released leaving at least a \$517,225 surplus in the account, which could be used to support the DCTF for at least three years.

Since 2009, the OPC has provided financial and administrative support to the DCTF that has afforded the DCTF both neutrality and legitimacy that otherwise might be difficult to establish and maintain without the OPC's support. For these reasons, the DCTF would like the OPC to consider continuing to play a non-fiscally supportive administrative role beyond 2019. Although reestablishing the DCTF under the Department of Food and Agriculture has been considered, the DCTF believes the current framework provided by the OPC is ideal. The DCTF understands OPC will not provide any financial support and the DCTF recommends that the OPC be allocated and authorized to use \$150,000 per year from the Dungeness Crab Account to finance a contract or grant that would support DCTF meetings, facilitation, elections, and other organizational needs.

Recommendation 4- The DCTF recommends amending Fish and Game Code section 8276.4(a)(7) to change the commercial fishing representation on the DCTF as follows:

(7) Seventeen members representing commercial fishery interests, elected by licensed persons possessing valid Dungeness crab permits in their respective ports and production levels, as follows:

- (A) Three members from Crescent City.
- (B) One member from Trinidad.
- (C) Two members from Eureka.
- (D) Two members from Fort Bragg.
- (E) Two members from Bodega Bay.
- (F) Two members from San Francisco.
- (G) Two members from Half Moon Bay.
- (H) Two members from ports south of Half Moon Bay.
- (I) One member who has a valid California nonresident crab permit.

All commercial fishing representation would have voting authority.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
9	9	2	0	2

NOTES:

The DCTF recommends amending the commercial fishing representation on the DCTF to be more reflective of the fleet and fishing dynamics. As this recommendation is written, the total number of commercial fishing seats remains unchanged from the current DCTF, however one seat is removed from Crescent City and one seat is added to the ports south of Half Moon Bay.

¹⁸ Koppel, Glenn. "Marilley v. Bonham." *American Bar Association*, 8 Mar. 2017, <https://apps.americanbar.org/ababoard/blog/blogpost.cfm?threadid=33774&catid=14923>

Recommendation 5- The DCTF recommends amending Fish and Game Code section 8276.4(a) to adjust the membership of the commercial DCTF members as follows:

- Elections for DCTF Members shall occur in each port every three years to allow for fresh perspectives to serve on the body. DCTF elections shall be staggered/rotating across ports to maintain institutional knowledge. *Details to appoint alternates are included in Recommendation 6.*
- For ports with one representative, elected members and their alternates will represent all permit holders in that port regardless of landings history (i.e., one representative will represent all production levels).
- For ports with two representatives, elected members and their alternates will represent both the upper and lower production levels (i.e., one upper production level representative and one low production level representative).
- For ports with three representatives, two elected members and their alternates will represent both the upper and lower production levels. A third elected member will represent all permit holders in that port regardless of landings history (i.e., one will represent low production levels, one will represent high production levels, and one will represent all production levels).
- Upper and lower production levels shall be calculated as the average of all permits in a port who landed a minimum of 25,000 pounds of crab during the five years prior to each election cycle.
- Elections will be coordinated by the Department and/or OPC with support from a contracted DCTF Administrative team.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
16	2	2	0	2

NOTES:

Regular and consistent elections are key to encouraging opportunities for fresh perspectives on the DCTF. Additionally, establishing alternating election cycles will uphold and maintain the institutional knowledge of the DCTF. All permit holders, regardless of landings history should have an opportunity to participate in elections and potentially be a nominee. Each port will elect at least one commercial fishing member, with some ports electing two or three. Production levels are based on each permit’s landing history and are unique to each port. To calculate high and low production, an average is taken of all permits based in a port who landed more than 25,000 pounds during the five years prior to each election cycle (i.e., the five year period would be re-calculated for each election). Permits that fall above the average are in the high production level and permits who fall below the average are in the low production level (even if the permit has zero landings). Recommendation 5 provides clarifications that will help ensure that Recommendation 4, which changes the structure of the DCTF, can be implemented as intended by the DCTF.

Recommendation 6- The DCTF recommends amending Fish and Game Code section 8276.4 to clarify how DCTF member alternates and replacements are identified as follows:

- A DCTF member will choose his/her alternate in the event he/she is unable to attend a DCTF meeting.
- In the event that a DCTF member is unable to fulfill his/her duty on the DCTF for a full three-year term, a replacement will be selected by the DCTF member until a new election can be held.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
20	0	0	0	2

NOTES:

The DCTF intends for alternates and replacements to be in the same port and production tier as the elected member. The DCTF Administrative Team will work with the Department to ensure alternates and replacements follow this intent. Fish and Game Code section 8276.4 currently permits the use of alternates on the DCTF, but is silent on the process for selecting alternates. The code is also silent on the process for replacing DCTF members between elections. Recommendation 6 seeks to add clarity to the code.

Recommendation 7- The DCTF recommends amending Fish and Game Code section 8276.4(b) to adjust the structure of the non-commercial DCTF members as follows:

- (1) Two members representing sport fishing interests: one voting and one non-voting.
- (2) Two members representing crab processing interests with voting authority.
- (3) One member representing commercial passenger fishing vessel interests with voting authority.
- (4) Two nonvoting members representing non-governmental organization interests.
- (5) One nonvoting representative of California Sea Grant.
- (6) Two nonvoting members representing the California Department of Fish and Wildlife.

Members representing sport fishing interests, crab processing interests, commercial passenger fishing vessel interests, and nongovernmental organization interest will be appointed by the OPC chair following a public solicitation for nominations. The Department and Sea Grant will select their own representatives.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
16	4	0	0	2

NOTES:

Recommendation 7 modifies Fish and Game Code section 8276.4 to change the two voting sport fishing members to one voting and one nonvoting member. The DCTF generally believes that the sport fishing, crab processing, commercial passenger fishing vessel, non-governmental organization, Sea Grant, and Department perspectives are important to inform DCTF discussions. However, since the DCTF's primary focus is the commercial fishery, the DCTF believes there should be fewer sport fishing votes.

Fish and Game Code section 8276.4 is silent on the process for seating the noncommercial fishing members. Recommendation 7 seeks to add clarity to the code to reduce challenges to identifying non-commercial DCTF member seats.

Sunsetting Fish and Game Code: Season Delays and Fair Start

In response to the sunseting of the 2019 Fish and Game code, the DCTF discussed the need to clarify regulations associated with season delays and “fair start” clauses due to experiences over the last two seasons associated with domoic acid delays (see pages 3-4).

Recommendation 8- Following a delay for health and safety issues such as elevated levels of domoic acid, and once an area is deemed “safe” by the California Department of Public Health and the Office of Environmental Health Hazard Assessment, the DCTF supports opening areas as they are deemed safe. The DCTF recommends amending Fish and Game code section 8279.1 so that 30-day fair start provisions are applied to any type of health/safety delay for any size area (e.g. if the fishery is opened in areas smaller than a district, each area would be subject to the fair start provisions) for both management areas.

DCTF recommends the Director gives three days’ notice that a preset will begin unless the preset will land on a state or federal holiday, December 24, Thanksgiving eve, or New Year's Eve. In these cases, the preset will begin the day after the holiday.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
13	3	2	1	3

NOTES:

The 2015-16 and 2016-17 Dungeness crab fishing seasons experienced unprecedented delays due to elevated levels of domoic acid in crabs. The delays caused the Department to reevaluate how to implement existing fishery regulations that were originally developed for delays specific to crab market quality (i.e. how much meat is in the crabs’ shells), rather than for public health issues.

Although existing law requires the Department to open areas to fishing as soon as CDPH and OEHHA deem them “safe,” fishermen expressed concern about opening the Dungeness crab fishery in this fashion since it causes fishing pressure to be compressed into smaller areas. The 30-day fair start provisions outlined in Fish and Game code section 8279.1 create incentives to reduce the impacts of effort shifts by preventing an individual from fishing a newly opened area for 30 days if he/she had been fishing an area that opened earlier. However, Fish and Game code section 8279.1 only applies to the district level such that when a portion of a district is delayed, the 30 days begin after the first part of the district opener, creating shorter wait times, or no wait times at all, for portion(s) of the district ([Appendix 15](#)). The DCTF believes this can add unnecessary pressure in small areas and amending the code so that a fair start applies to any size area would help reduce this pressure.

Since the Department tends to open the fishery within 24 hours of receiving the go-ahead from CDPH and OEHHA, fishermen have expressed concerns about their safety and ability to make informed business decisions when given such a short timeframe to open. The DCTF recommends the Director be given the ability to give three days notice before fishermen are allowed to set their gear with the ability to extend the

notice by one day if the preset falls on a holiday. Such an amendment will help ensure more orderly commercial Dungeness crab fishery openers.

Sunseting Fish and Game Code: Lost Fishing Gear Recovery Program

In January 2015, the DCTF recommended the development of a lost fishing gear recovery program, which informed the development of SB1287 ([Appendix 10](#)). Although the program will sunset in 2019, barring a legislative amendment, the Department is continuing to develop the program and discussing options for its implementation in partnership with the DCTF and fishing industry. The following recommendation is based on those discussions with the Department.

Recommendation 9- The DCTF looks forward to working with the Department to implement the lost fishing gear recovery program outlined in Fish and Game code 9002.5 and would like to recommend the following adjustment to help reduce Department costs: require that when permits are renewed, permitholders are informed that the Department will share their contact, license, and permit information with a 3rd party entity that will be supporting local retrieval efforts. The 3rd party entity will maintain the confidentiality of the information and use it to locate the owner of recovered gear to facilitate its return to the owner.

If this recommendation is not lawful, the DCTF recommends the Department enter into a confidentiality agreement with the 3rd party entity that will be supporting local retrieval efforts to enable it to share contact information of permitholders to assist in efforts to locate owners of the recovered gear.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
18	2	0	0	2

NOTES:

The DCTF continues to support SB 1287/Fish and Game code 9002.5 ([Appendix 10](#)) and generally sees the lost fishing gear recovery program outlined in the bill as an important step in addressing and minimizing potential negative gear interactions including whale entanglements, ghost fishing, gear loss, navigational hazards, etc. The DCTF recommends the sunset of Fish and Game code 9002.5 be extended to 2029. During the October 16-18, 2017 DCTF meeting, the Department provided an update on their interpretation of SB1287 ([Appendix 8](#)). The DCTF believes it is important to minimize Department involvements in the program to reduce costs. They believe the program can be run by 3rd party entities with limited support from the Department such that the Department is only involved in the program to issue permits to the 3rd party organizations to run the program and to enforce the program's stipulations when commercial fishermen are in violation of the program by not paying for their recovered gear. A major hurdle in allowing the 3rd party entities to run the program is the fact that permitholders' contact information is confidential. This means that if a recovered trap is missing the legally required contact information in the trap, the 3rd party entity has no way to cross-reference the license number on the buoy to contact the trap owner. While the Department has offered to take responsibility for this effort, the DCTF believes the contact and license information of all individuals involved in the commercial Dungeness crab fishery should be confidentially shared with the 3rd party entities involved in running the recovery programs. This will help to reduce the cost of the program and minimize the Department's involvement at early stages of the gear recovery process. If this information is shared with the 3rd party entity (or entities) running the program, then the only need for involving the

Department in the program will be to issue permits to retrieve lost gear after the season and address those individuals who are not in compliance with the program (i.e., do not pay the fees associated with their recovered traps).

Whale Entanglement in Dungeness Crab Gear Concerns

Whale entanglements in California Dungeness crab fishing gear has been identified as a high priority issue by the industry. This situation creates a risk for marine mammals and threatens the stability of the fishery and coastal fishing communities, both of which the public values. The ensuing recommendation is directly related to DCTF discussions about the efforts being made by the California Dungeness Crab Fishing Gear Working Group to address this issue ([Appendix 12](#)).

Recommendation 10- The DCTF supports the California Dungeness Crab Fishing Gear Working Group’s (Working Group) efforts to address the issue of whale entanglements in California Dungeness crab fishing gear. This includes the piloting of a draft Risk Assessment and Mitigation Program (RAMP) and the recommendation that the Department work with other fixed gear fisheries to establish standardized marking of surface gear.

Fishing ports are committed to supporting Working Group representatives to continue their participation on the body. The DCTF supports the Working Group continuing its activities and looks forward to learning more as efforts progress.

Vote of all DCTF Members (nonvoting Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
18	1	1	0	2

NOTES:

The Working Group is working to develop solutions to support thriving whale populations along the West Coast and a thriving and profitable Dungeness crab fishery. Over the past year, the Working Group developed an updated Best Fishing Practices Guide ([Appendix 11](#)), began piloting a number of gear modifications and electronic reporting tools, supported new whale research, provided a recommendation on requiring improved gear marking, and developed a pilot for a draft Risk Assessment Mitigation Program (RAMP) that will be tested during the 2017-18 fishing season. The draft RAMP seeks to work collaboratively with experts (fishermen, researchers, NGOs, etc.) to identify and assess elevated levels of entanglement risk and determine the need for management options to reduce risk of entanglement. The Working Group will pilot the draft RAMP during the 2017-18 fishing season to evaluate its structure and function, including the implementation of the tools and process for assessing circumstances where entanglement risk is likely to be elevated and, as needed, identify possible voluntary management measures for the Director’s consideration. The Working Group will also consider what legislative support may be suitable/helpful with certain aspects of the RAMP moving beyond the pilot, including providing needed authority to respond to RAMP recommendations.

The DCTF agrees that the issue of whale entanglements in the Dungeness crab fishery is an important, priority for the fleet to address and supports the efforts of the Working Group. DCTF members have indicated that many of their ports have supported Working Group participants’ travel to attend Working Group meetings and will continue that commitment to ensure this issue is addressed and fishermen continue to have a role in developing strategies to address this issue.

Outstanding DCTF Recommendations (re: Continuation of the DCTF)

As a reminder, the DCTF provided a number of recommendations in the January 2017 report ([Appendix 2](#)) that have yet to be considered or addressed by the appropriate regulatory bodies and are related to the recommendations above regarding the continuation of the DCTF. The DCTF requests that regulators consider including these recommendations if any related legislation or regulatory packages are introduced in 2018. The recommendations below have been paraphrased to highlight those details that are still outstanding. The original language and associated rationale are available in [Appendix 2](#).

January 2017: Recommendation 3- The DCTF may also investigate legislative options to pursue long-term funding through access to the Dungeness Crab Account to support the DCTF or an industry-representative organization beyond 2019.

January 2017: Recommendation 4- The DCTF identified the following priorities of a future industry-representative organization:

- Inform fisheries management;
- Be responsive to high profile and policy issues;
- Serve as a conduit of information to/from the fleet to the Legislature, Department, and Commission;
- Identify industry research priorities; and
- Serve as a source for public relations efforts related to industry issues.

At this time, the DCTF is not interested in a future industry-representative organization addressing commodity marketing or pricing as part of its charge.

January 2017: Recommendation 5- The DCTF continues to see value in the DCTF or a similar industry-representative body. The DCTF supports the continued use of a 2/3 voting structure.

DCTF NEXT STEPS

Completion of the January 15, 2015, January 15, 2016, and January 13, 2017 reports fulfill the mandates of SB 369. However, as explained in the recommendations in this report, the DCTF does not sunset until 2019 and generally believes there is value in extending the DCTF to continue to support California Dungeness crab fishery management. The Department has stated that continued funding of the DCTF will be available in early 2018 through the 2019 sunset and a recommendation has been made in this report on opportunities to fund the DCTF beyond 2019 should Fish and Game code section 8276.4 be extended.

The DCTF looks forward to using 2018 through early 2019 to continue to discuss priority issues including the ones in this report and may forward recommendations related to improvements to the California commercial Dungeness crab trap limit program, clarifications to Title 14 regulations related to in-season gear recovery, extended preset periods to improve safety of the fishery, and other priorities that may arise. All future meetings and business by the DCTF will continue to be done in compliance with all pertinent laws and regulations.