

Litigation Overview

Center for Biological Diversity v. Charlton H. Bonham Settlement timeline:

- October 2017 – CBD filed complaint - alleged illegal take of endangered species
- Pacific Coast Federation of Fishermen's Associations later intervened
- November 2018 CDFW announced it would seek a federal permit under the Endangered Species Act
- March 2019 - Parties arrived at Settlement agreement
- Court issued a “Stay” until a final RAMP Rule



Interim Management: Settlement

- 2019-20 Commercial Dungeness Crab season will close April 1, 2020 (unless risk determined to be low)
- Confirmed entanglement or presence ESA listed species prompt closure
- Working Group provides risk assessment and management recommendation to Director
- Working Group conducts evaluation (November 1 - July 1)
- Director makes final determination
- Process remains in place until RAMP rule is adopted (November 2020)



Interim Management: Settlement

- Regulation development:
 - Gear retrieval program by November 15, 2019
 - Fixed gear marking by November 15, 2019
- Submit a draft ~~Habitat~~ Conservation Plan to NOAA by May 15, 2020
- Prohibit gear spatially or temporally, or take other management measures as recommended by NOAA
- CDFW commits to regular check-in with CBD/PCFFA
- Pursue stipends for Working Group members



Interim Management: Settlement

- Support efforts to making WG meeting accessible to the public
- Commit to regular RAMP workshops
- Provide Appendix A material for possible inclusion into RAMP rule
- Support Sea turtle research and funding
- Support Whale presence modeling
- Support electronic monitoring development
- Support gear innovation/modification efforts



CDFW Priorities

Settlement implementation, rulemakings and Conservation Plan development:

- RAMP and data evaluation (May-August 2019)
- Proposal development (August 2019)
- Gear retrieval program by (November 2019)
- Fixed gear marking (November 2019)
- Engage WG in Conservation Plan development (May 2020)
- RAMP rulemaking by (November 2020)



ESA and HCP Basics

- Section 9 - prohibits take, harm, harassment etc. (broad)
- Section 10 - permits take for lawful activities
- Incidental Take Permit (ITP) - non-Federal activities
- HCP (CP) must accompany ITP application



Conservation Plan

Key elements of the Conservation Plan:

- Species and covered activities
- Impacts of fishery on ESA-listed species
- Biological goals and objectives for ESA-listed species
- Avoidance and minimization measures (RAMP)
- Monitoring approach and adaptive management
- Implementation plan, funding and enforcement
- Project alternatives (extent practicable)



Conservation Plan

Important development factors:

- Applicant driven process
- Stakeholder involvement
- Take levels – Marine Mammal Protection Act
- Adaptive management
- Climate change
- Minimization measures (proof)
- Jeopardy standard (survival and recovery)
- NEPA and CEQA
- Alignment with OR and WA?



Commercial Dungeness Management Timeline

	September 2019	May 2020		November 2020		2021		2023
Working Group	Consultation and Risk Assessment							
Interim Management	Settlement							
RAMP 1	-----in development-----			RAMP 1 Management				
Conservation Plan – ITP application	-----drafting-----		Draft revision and ITP application completion			NMFS Review/Consultation		
RAMP 2							RAMP 2 Management?	
Incidental Take Permit								Permit Issuance ?
Adaptive Management - RAMP 3?								Adaptation
Public Involvement	Communication							

