

California Ocean Protection Council (OPC)

COPCpublic@resources.ca.gov

Re: Item Number 7, In support of the Council providing additional funding to implement the Sub Sea Sonics expanded EFP

Something momentous is happening in California. Interest from fishers in testing pop-up fishing gear to reduce the risk of whale and sea turtle entanglements is now outweighing the resources available to provide them with access to the technology.

Twenty Dungeness crab fishers have signed up to test a type of pop-up gear (also known as “on-demand” or “ropeless” gear) developed by Sub Sea Sonics and Guardian Ropeless—a technology the fishers have chosen due to its cost effectiveness and previous successful testing efforts in 2023 that demonstrated crab could be fished with a 98% reliability rate and virtually no gear loss. In fact, more than 40 applicants vied for the 20 spots available on the expanded Experimental Fishing Permit (EFP) required to test the gear.

These larger-scale testing efforts will provide the opportunity for many new fishers to gain first-hand experience with the gear while also providing data to the California Department of Fish and Wildlife that is vital to their potentially authorizing pop-up gear for commercial use in the California Dungeness crab fishery in 2025. More broadly, the completion of this project would provide essential scientific data to make more effective resource management decisions that will result in productive fisheries and protected whales and sea turtles.

But there is a serious problem: The Sub Sea Sonics pop-up testing project is currently unfunded.

On February 29th, the California Ocean Protection Council (OPC) will meet and decide how to spend the almost \$1.6 million dollars remaining in its General Fund, originally appropriated to address whale and sea turtle entanglements in California fishing gear. OPC staff have made several recommendations to the Council members as to how the funding could be spent.

Highly support several of these items: Funds to develop a virtual gear marking system to support enforcement of pop-up gear will remove a significant barrier to its commercial use; line marking of fishing gear so that gear entangling animals can be traced back to the fishery of origin will be of great benefit to management (as recently demonstrated for North Atlantic right whales on the U.S. East Coast); and continued support for large whale entanglement response is also critical until a more enduring solution to entanglements is found.

There is concern, however, that the immediate funding need of the 20 fishers who have signed up to participate in the Sub Sea Sonics expanded EFP has not been met by the Staff Recommendation. Rather, only \$200,000 is recommended to be directed to the entirely separate National Marine Sanctuary Foundation EFP, which will involve necessarily smaller-scale outreach, demonstrations, and training/testing. No rationale is provided to explain why the recommendation was made to support the Foundation’s EFP over other EFPs that are currently active and also in need of funding. While support is expressed for the recommendation to fund the Foundation’s EFP, more resources are urgently needed, particularly to support the implementation of the Sub Sea Sonics expanded EFP.

Unfortunately, pop-up gear isn't popular among some members of the fishery and fishers who volunteer to test it put themselves at personal and professional risk of retaliation. Limiting access of pop-up gear seriously risks attrition of fishers from the project, undoing years of progress. Any form of delay would slow the commercial authorization process, extending the economic uncertainty for the industry resulting from annual fishery closures, and leaving endangered whales and sea turtles at continued risk of torturous and unlawful entanglements.

As a solution, the OPC should authorize up to \$520,000 in additional funds to support the implementation of the Sub Sea Sonics expanded EFP. Support could be provided by offering a flat rate reimbursement amount per pop-up unit to fishers, paying the lease fee for the gear for the fishers, or establishing a state gear cache to support all EFPs in need of assistance. If the latter solution was pursued, the state would need to prioritize purchasing the types of pop-up technologies that fishers have shown most interest in, and do so quickly enough and in sufficient quantity to support testing this spring.

OPC has sufficient resources to fund this additional modest investment request, which is consistent with the California Strategic Plan to Protect California's Coast and Ocean 2020-2025. Target 3.3.5 of the Strategic Plan states, "Develop a statewide whale and sea turtle protection plan by 2022 with a target of zero mortality (Vision Zero). As a component of this overall plan, develop and initiate a funding strategy to reduce the risk of entanglement in California fishing gear by 2020." One of the actions under Target 3.3.5 is "Support the testing of fishing gear innovations such as "pop-up" fishing technologies, in 2021."

Near-term funding of the Sub Sea Sonics pop-up testing project is one of our best available opportunities for realizing the coexistence of California's treasured marine life and vibrant fisheries.

The California Ocean Protection Council can help California's fishers and marine life.

Yours sincerely,

Robert E. Rutkowski

cc:

Correspondence Team

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February 28, 2024

Wade Crowfoot, Secretary for Natural Resources
Chair, Ocean Protection Council
California Natural Resources Agency
715 P Street, 20th Floor
Sacramento, CA 95814

SUBJECT: Support for funding to reduce risk of whale and sea turtle entanglements in fishing gear (Item 7)

Dear Chair Crowfoot and Members of the Ocean Protection Council:

The Department of Fish and Wildlife (Department) has worked closely with Ocean Protection Council (OPC) staff to develop funding priorities and supports the authorization for disbursement of funding for Item 7: Consideration and Approval to Disburse Funds to Reduce the Risk of Whale and Sea Turtle Entanglement in Fishing Gear.

Since 2015, the Department has coordinated with OPC and other state and federal partners to address and mitigate marine life entanglements with fishing gear across California with a specific focus on the commercial Dungeness crab fishery through the Risk Assessment and Mitigation Program (RAMP). With support from OPC, several programs and research projects have been initiated to decrease the rate of entanglements with federally protected humpback whales, blue whales, and leatherback sea turtles, and effectively respond to entanglements when they occur. The recommended OPC funding will directly support RAMP and the Department's efforts to obtain an Incidental Take Permit (ITP) for the commercial Dungeness crab fishery from NOAA Fisheries. An ITP is required when fisheries interact with federally protected species under the Endangered Species Act. The Department is concurrently updating and refining RAMP regulations to incorporate new methods and technologies to further reduce entanglement risk, which aligns with the Conservation Plan and is a required element of the ITP.

The projects outlined in Item 7 support regulatory requirements in RAMP and the Conservation Plan, provide continued support for entanglement response, and expand gear innovation testing within the commercial fleet. More specifically, the ropeless fishing management portal will serve as a critical tool to the Department's Law Enforcement Division in the development and use of Alternative Gear as defined by the RAMP. The community-based cooperative for ropeless fishing gear will expand and refine testing of ropeless gear currently underway to prepare for the approval of Alternative Gear, ultimately providing more fishing opportunity to the fleet. The

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procurement of manufactured fishing line will support line marking requirements developed in coordination with Oregon and Washington, thereby reducing the number of entanglements where a fishery cannot be identified to better address the entanglement issue across all state managed fisheries. Line marking is a required component of the ITP and the updated RAMP regulations. Finally, the continued support for large whale entanglement response will improve entanglement outcomes for protected species by improving response capabilities. OPC's funding will build on previous state investments and collectively advance the Department's efforts to reduce, identify and respond to entanglements across California waters and the West Coast.

The support by OPC and state and federal collaborators has been and will continue to be critical to safeguard our marine life populations while supporting sustainable fisheries in California. If you have any questions or need additional information, please contact me at (805) 568-1246 or by email at r7regionalmgr@wildlife.ca.gov.

Sincerely,



Craig Shuman, D. Env.
Marine Region Manager

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Comments for OPC Meeting 2/29/24 Item 7

Dear Council Members

My name is Bart Chadwick and I am the Permit Holder on EFPT2-001 “Testing of Pop-Up Gear in the California Dungeness Crab Fishery.” Our EFP was the first EFP in the State of California to allow for the use of pop-up fishing gear as a means of reducing entanglement risk for whales and turtles. In the spring of 2023, our EFP was the first to demonstrate that Dungeness crab fishers could successfully fish for crab using pop-up gear with a 98% reliability rate and virtually no gear loss. Based on those results, the interest in this technology has blossomed and we had over 40 applicants for 20 slots on our expanded EFP for this coming spring. The testing to be conducted this spring will lay the groundwork for our gear to be authorized for use under the RAMP program in the Dungeness crab fishery in 2025. I have attached a letter that we previously submitted to the OPC and Fish and Game Commission showing the full support of our 20 fishers for approval of our expanded EFP and requesting the OPC to help provide some form of funding support to help them trial this gear during the spring of 2024. This is a huge success story and a pivotal moment in the path toward implementation of this important technology.

We have spent months trying to communicate with OPC staff and CDFW to find a pathway to help support these fishers in defraying the costs of these trials. Both myself and my fishers have sent letters, emailed, called and attended meetings in the hopes of finding a fair and equitable opportunity to access some of the remaining OPC funds under the Council's charter to “Reduce the Risk of Whale and Sea Turtle Entanglement in Fishing Gear.” We have been denied any opportunity to even have a discussion. Instead, OPC staff have chosen to recommend providing hundreds of thousands of dollars to a single EFP, held by the National Marine Sanctuary Foundation, that has already received a commensurate amount of OPC funding to purchase gear, fund salaries, and provide stipends for fishers. The additional funding recommended by OPC staff can only be used to support the NMSF EFP and their fishers and will only provide access to a few limited gear types. In the meantime, fishers under our EFP will be provided no support.

We have suggested many options to OPC and CDFW that would provide a fair approach to this issues. For example, they could offer a flat per unit reimbursement amount to fishers. They could offer to pay the lease fee for the gear for the fishers. They could purchase gear for all EFPs to be held in their own gear caches for the use of the Dungeness crab fishery. There are many ways to find a fair solution.

Instead, the OPC is moving to approve an approach that is manifestly unfair by simply singling out a single EFP, and the associated manufacturers, gear types, and fishers while ignoring the needs of every other EFP, manufacturer and fisher. We have no transparency as to the rationale for these decisions, but they reflect a biased approach that can only be interpreted as favoring existing relationships between these organizations.

We are at a critical juncture for the future of this technology, and the OPC has a clear opportunity to make a significant contribution to that future. I urge you for the sake of fairness, for the sake of these 20 fishers and for the sake of a future where fishers can access their fishery without entanglement risk, please reconsider your proposed action on agenda item 7 and expand your

support to include all EFPs that are working so hard to move this opportunity forward for our fishers.

Sincerely,

Bart Chadwick

Bart Chadwick, PhD

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February 12, 2024

Wade Crowfoot, Secretary for Natural Resources Chair, California Ocean Protection Council
California Natural Resources Agency 715 P Street, 20th Floor Sacramento, CA 95814

Mr. Eric Sklar, President California Fish and Game Commission P.O. Box 944209 Sacramento, CA
94244-2090

RE: CA Fish and Game Commission Agenda Item 8B: EFP (Commission ID# 2022-03; Sub Sea
Sonics Pop-up Gear) major amendment request; and support for Ocean Protection Council
Funding

Dear Secretary Crowfoot, President Sklar, Commissioners, and Council members:

We the undersigned California Dungeness crab fishermen are writing in support of approval and funding for our participation in the 2024 Sub Sea Sonics/Guardian Experimental Fishing Permit to commercially fish with pop-up gear attached to strings of up to 10 traps. Testing to date has demonstrated that the gear setup under the EFP is reliable, and this expanded EFP would allow a significant number of additional fishers to evaluate the gear first-hand under realistic fishing conditions. Given the recent Dungeness crab fishery closures, it is critical for us to have opportunities to continue crab fishing in the spring.

We ask the Commission to approve the amendment request to the Sub Sea Sonics EFP as recommended by CDFW. We request that the Ocean Protection Council dedicate a substantial portion of its remaining whale and sea turtle entanglement funding to provide reimbursements for fishers that purchase gear as part of the approved EFP, so that we can participate to the fullest extent possible.

This will help ensure fishmen have access to opportunities for a long-term sustainable and profitable fishery, while minimizing entanglement risk and supporting early adopters of new innovative technologies in California's fishing communities.

Sincerely,

Steve Melz, F/V Jacqueline L

Joseph Parks, F/V Misty Dawn

Brand Litle, F/V Pale Horse

Justin Monckton, F/V Ava Mae

Mat Juanes, F/V Plumeria

Bob Monckton, F/V Judy Kay

Khevin Mellegers, F/V Areona

Gregg Tanji, F/V Sandy B

Tim Obert, F/V LULU

Valerie Phillips, F/V Aqua Leo

Cody Reed, F/V Stacey Jo

Shawn Flading, F/V Kvins

Jim Rando, F/V Misty Dawn

Bobby Bohannon, F/V Victoria

Mike Phillips, F/V Miss Alison

Michael Cohen, F/V Eagle

Frank Cunningham, F/V Carley Diane

Scot Edson, F/V Genesis

Tommy Walsh, F/V Imperial

Barry Day, F/V Rosella

cc. Jenn Eckerle, California Ocean Protection Council Mike Esagro, California Ocean Protection Council Katie Cieri, California Ocean Protection Council Chuck Bonham, California Department of Fish and Wildlife Craig Shuman, California Department of Fish and Wildlife Eric Kord, California Department of Fish and Wildlife Melissa Miller- Henson, California Fish and Game Commission Susan Ashcrati, California Fish and Game Commission