

## STAFF SUMMARY FOR DECEMBER 6-7, 2017

**29. MARINE NON-REGULATORY REQUESTS****Today's Item****Information** ☐**Action** ☒

This is a standing agenda item for FGC to act on non-regulatory requests from the public that are marine in nature. For this meeting:

- (A) Action on non-regulatory requests received at the Oct 2017 meeting.
- (B) Update on pending non-regulatory requests referred to FGC staff or DFW for review.

**Summary of Previous/Future Actions**

(A)

- FGC receipt of requests Oct 11-12, 2017; Atascadero
- **Today's action on requests** Dec 6-7, 2017; San Diego

(B)

N/A

**Background**

FGC provides direction regarding requests from the public received by mail and email and during public forum at the previous FGC meeting. Public requests for non-regulatory action follow a two-meeting cycle to ensure proper review and consideration.

- (A) **Non-regulatory requests.** Non-regulatory requests scheduled for consideration today were received at the Oct 2017 meeting in one of three ways: (1) submitted by the comment deadline and published in the meeting binder, (2) submitted by the late comment deadline and delivered at the meeting, or (3) received during public forum.

Today, eight (8) non-regulatory requests received at the Oct 2017 meeting are scheduled for action. Exhibit A1 summarizes and contains staff recommendations for each request.

- (B) **Pending non-regulatory requests.** This item is an opportunity for staff to provide a recommendation on non-regulatory requests that were scheduled for action at a previous meeting and referred by FGC to staff or DFW for further review. No items are scheduled for action today.

**Significant Public Comments (N/A)****Recommendation**

- (A) Adopt staff recommendations for non-regulatory requests to (1) deny; (2) grant; or (3) refer to committee, staff or DFW for further evaluation or information-gathering. See Exhibit A1 for staff recommendations.

STAFF SUMMARY FOR DECEMBER 6-7, 2017

**Exhibits**

- A1. FGC table of marine non-regulatory requests received through Oct 12, 2017
- A2. Email from Peter Flournoy, dated Aug 24, 2017
- A3. Email from Ron Ellis, dated Sep 28, 2017

**Motion/Direction**

- (A) Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission adopts the staff recommendation for actions on October 2017 non-regulatory requests.

**OR**

Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission adopts the staff recommendations for actions on October 2017 non-regulatory requests, except for item(s) \_\_\_\_\_ for which the action is \_\_\_\_\_.

**CALIFORNIA FISH AND GAME COMMISSION**  
**DECISION LIST FOR MARINE NON-REGULATORY REQUESTS FOR ACTION THROUGH OCT 12, 2017**  
**Revised 11-20-2017**

**FGC** - California Fish and Game Commission **DFW** - California Department of Fish and Wildlife **WRC** - Wildlife Resources Committee **MRC** - Marine Resources Committee

Date Received	Name of Petitioner	Subject of Request	Short Description	FGC Decision	Staff Recommendation
8/24/2017	Peter Flournoy, on behalf of Dan Major	Experimental fishing permit - octopus	Requests experimental fishing permit to target octopus using a new gear type	<b>Receipt: 10/11-12/2017</b> <b>Action: Scheduled 12/6-7/2017</b>	<b>DENY; FGC previously denied due to potential impacts which could not be adequately evaluated due to a lack of biological information for the stock. Biological information is still limited and DFW lacks sufficient resources to collect the information; therefore it would be inconsistent with Marine Life Management Act principles regarding sustainable fisheries to issue experimental permits at this time.</b>
9/28/2017	Ron Ellis <i>F/V Defiance</i>	Experimental fishing permit - box crab	Requests experimental fishing permit for brown box crab in support of developing a box crab fishery	<b>Receipt: 10/11-12/2017</b> <b>Action: Scheduled 12/6-7/2017</b>	<b>DENY; Based on information shared at the Nov 2017 MRC meeting, DFW is developing a framework for an experimental permit program for future FGC consideration. Staff recommends waiting until program criteria are developed and approved before issuing any individual permits.</b>
10/12/2017	Josh Russo	Recreational urchin fishery	(1) Requests FGC lift the daily bag limit for urchin for day-long events to allow recreational divers to remove urchins from areas to improve conditions for abalone. (2) Request help from DFW to organize a single day event.	<b>Receipt: 10/11-12/2017</b> <b>Action: Scheduled 12/6-7/2017</b>	<b>(1) DENY; regulation change requests must be submitted using the regulation change petition form, FGC-1.</b> <b>(2) No FGC action required.</b> Comment received by DFW at Oct 2017 FGC meeting.
10/12/2017	Alexis Jackson The Nature Conservancy	Red abalone fishery management plan	Requests FGC add the Red Abalone Fisheries Management Plan topic to its December meeting agenda	<b>Receipt: 10/11-12/2017</b> <b>Action: Granted</b>	<b>Action complete;</b> at its Oct 2017 meeting, FGC requested DFW provide an update at the Dec 2017 FGC meeting.
10/12/2017	Douglas Bush	Kelp lease	Requests FGC direct staff to finalize kelp bed lease	<b>Receipt: 10/11-12/2017</b> <b>Action: Granted</b>	<b>Action complete;</b> at the Oct 2017 FGC meeting, President Sklar directed the leasee to work with staff regarding the lease.
10/12/2017	Tom Hafer	Monitoring	(1) Requests FGC pay attention to any proposed wind farms off California's coast (2) Requests more monitoring within marine protected areas	<b>Receipt: 10/11-12/2017</b> <b>Action: Scheduled 12/6-7/2017</b>	<b>No FGC action required.</b> (1) Topic is already being tracked through MRC. (2) Monitoring in marine protected areas remains a statewide priority.
10/12/2017	Chris Voss	Experimental permits	Requests DFW consider addressing experimental permits during the Marine Life Management Act master plan revision process	<b>Receipt: 10/11-12/2017</b> <b>Action: Scheduled 12/6-7/2017</b>	<b>No FGC action required.</b> Comment received by DFW at the Oct 2017 FGC meeting.
10/12/2017	Jack Lichens	Red abalone fishery management plan	Requests DFW work more collaborative with stakeholders during development of Red Abalone Fisheries Management Plan	<b>Receipt: 10/11-12/2017</b> <b>Action: Scheduled 12/6-7/2017</b>	<b>No FGC action required.</b> Comment received by DFW at the Oct 2017 FGC meeting.

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**From:** Peter H Flournoy  
**Sent:** Thursday, August 24, 2017 10:35 AM  
**To:** FGC  
**Subject:** REQUEST FOR EXPERIMENTAL GEAR PERMIT FOR OCTOPUS

Dear Sirs:

Attached is a letter which Sonke Mastrup was supposed to present to the Commission for your June Meeting. Somehow it was misplaced and since then we have not been able to track down its whereabouts. Would you please consider it expeditiously at your next Commission meeting. We will also be submitting for consideration at that meeting a petition to change the rock crab permit regulations to allow octopus to become a directed species under those regulations as contrasted to an allowable bycatch which I understand to be the current consideration.

Please do not hesitate to contact me if you have any questions, Thank you, Peter H. Flournoy

PETER H. FLOURNOY  
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**PETER H. FLOURNOY**

June 14, 2017

**Re: Request for Experimental Gear Permit to Fish Octopus**

Dear Commissioners:

My client's name is **Dan Major**, and he has been a commercial fishermen licensed by the State of California for twenty (20) years. The purpose of this letter is to ask that Dan be allowed to start the process, with the approval of the California Fish and Wildlife Commission, to obtain an experimental gear permit for an octopus fishery. I understand that the Commission is encouraged to develop new types of commercial fishing gear and new methods of using existing gear by the California legislature.

Over the years Dan has been a commercial fisherman, licensed for and still is involved in the following fisheries: Southern rock crab, nearshore fisheries, lobster, open access ground fish, and highly migratory species. Over the last several years he has been getting a lawful incidental bycatch of octopus in his crab fishery. As you may be aware, octopus is becoming more and more popular in California restaurants. Dan believes there is a healthy octopus resource off the shores of Southern California, and perhaps elsewhere off California, which could be harvested by California fishermen. In other countries octopus is caught in clay pots which rest on the ocean bottom and are marked by a buoy. That would be the subject of the experimental gear permit.

Another possibility for an octopus fishery would be to make it an allowable *target* species for those who possess Southern rock crab permits. I am not sure how this would be handled by the California Fish and Wildlife Department; however, Dan would be willing to work with its staff on this possibility also. Nevertheless, since clay pots would be such a benign gear type, it might be preferable to follow the experimental gear permit process initially.

Dan has given the possibility of an octopus fishery a substantial amount of thought, and he has already researched several of the scientific studies on octopus and on different techniques for harvesting them. He has also explored the possibility of marketing octopus here in California and has been encouraged by the results.

Thank you for your consideration of Dan's request for an experiment gear permit and we look forward to hearing from you.

Sincerely,

  
Peter H. Flournoy

Cc: Dan Major

## FGC

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**From:** refishsb  
**Sent:** Thursday, September 28, 2017 10:48 AM  
**To:** FGC  
**Subject:** EFP Letter of interest  
**Attachments:** RonEllisBoxCrabLtr9-28-17.docx

Please accept this letter of interest for an experimental fishery permit for the Box crab in California.  
thank you,  
Ron Ellis

Sent from my Verizon, Samsung Galaxy smartphone

September 28, 2017

Ron Ellis  
F/V DEFIANCE

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

RE: EXPERIMENTAL FISHERY PERMIT FOR BOX CRAB, *Lopholithodes foraminatus*

Dear Mr. Sklar and Commissioners:

I am writing to express my interest in working with the Department of Fish and Wildlife to develop an experimental fishery for the brown box crab, *Lopholithodes foraminatus*. In the course of my fishing for rock crab, I have occasionally taken box crab in my rock crab traps. When I bring them to market, this specialty crab has piqued interest at high-end market levels. As such, a low-volume high-value fishery for this species may bring a novel crab to market, assist in fishery development, and satisfy a market demand for this specialty crab. As you aware, the concept of low-volume, high-value fisheries is one embraced, even endorsed, by the ocean conservation community, including The Nature Conservancy.

I have over 20 years experience fishing rock crab, so have the expertise to assist the department in looking into this fishery. I would imagine that this experimental fishery project would fall under the provisions of newly enrolled legislation (AB-1228) amending the California Fish and Game Code, specifically:

FGC Sec. 1022 (g)(1) "Compensation fishing" means fishing conducted for the purpose of recovering costs associated with resource surveys and scientific studies that support the management of a fishery, or fishing that serves as an incentive for participation in those studies. Compensation fishing may include fishing before, during, or following those surveys or studies.

And

FGC Sec. 1022 (g)(3) "Exploratory fishing" means fishing to collect data or conduct other research, typically to provide information that could inform the potential opening of a new fishery or an area currently closed to fishing."

I have spoken with Sea Grant Marine Advisors in this region and Sea Grant Extension is highly interested in collaborative research to gain important biological information on the brown box crab, and willing to work with me on the project. With Sea Grant Extension's expertise in collecting relevant population biology information on the species, the project is assured of getting the right information in

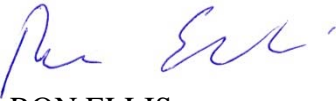
place should the commission decide, down the road, that this would be a good new fishery. I have worked with Sea Grant Extension on two different projects in the past collecting data on the rock crab fishery over the last 8 years. Data included sex ratio by size class, spatial distribution and abundance.

I am also in the process of contacting a crustacean biologist at the University of California, Santa Barbara, Marine Science Institute, who has worked extensively with Sea Grant, with rock crab, and other relevant research, who may also provide valuable expertise in data collection and analysis.

With these scientific underpinnings, I believe that we have an excellent chance to pursue opening a new sustainable, low-volume, high-value fishery for California. I urge you to direct Department staff to contact me at the earliest opportunity to further this experimental fishery permit request. I can be contacted at any time via the information on the letterhead, above.

Thank you for considering this request.

Sincerely,



RON ELLIS

F/V DEFIANCE