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Valerie Termini, Executive Director
1416 Ninth Street, Room 1320
Sacramento, CA 95814
(916) 653-4899
www.fgc.ca.gov

Fish and Game Commission



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MARINE RESOURCES COMMITTEE

Committee Chairs: Commissioner Sklar and Commissioner Silva

November 9, 2017 Meeting Summary

Following is a summary of the Marine Resources Committee (MRC) meeting as prepared by staff.

Call to order

The meeting was called to order at 8:50 a.m. by Commissioner Silva at the Marina Branch Public Library, 190 Seaside Circle, Marina. Commissioner Silva gave welcoming remarks.

Susan Ashcraft introduced California Fish and Game Commission (Commission) staff and California Department of Fish and Wildlife (DFW) staff, and outlined the meeting procedures and guidelines, noting that the Committee is a non-decision making body that provides recommendations to the Commission. She reminded participants that the meeting was being audio-recorded and that the recording will be posted to the Commission website. The following Committee co-chairs, FGC and DFW staff, and invited speakers were in attendance:

Committee Co-Chairs

Eric Sklar	Present
Peter Silva	Present

FGC Staff

Valerie Termini	Executive Director
Susan Ashcraft	Marine Advisor
Heather Benko	Sea Grant State Fellow
Rick Pimentel	Analyst

DFW Staff

Bob Puccinelli	Captain, Law Enforcement Division
Craig Shuman	Regional Manager, Marine Region
Julia Coates	Environmental Scientist, Marine Region
Travis Tanaka	Environmental Scientist, Marine Region Fisheries

Other Invited Speakers

Paige Berube	Program Manager, California Ocean Protection Council
Joe Exline	Member, MRC Fisheries Bycatch Workgroup
Sherry Lippiatt	California Regional Coordinator, NOAA Marine Debris Program

1. Approve agenda and order of items

The Committee co-chairs approved the agenda and order of items.

2. Public forum for items not on the agenda

Brian Gorrell (commercial fisherman): Requested MRC consider his petition for regulation change (submitted in October), for an additional trap endorsement for the nearshore fishery in south central region. Commissioner Sklar asked FGC staff to confer with DFW and discuss options to address the request; Susan Ashcraft noted that the petition is scheduled for Commission action in December. Craig Shuman highlighted that this would be a change to restricted access regulations for this fishery, rather than just issuing a new permit and noted the recent adoption of the nearshore regulations package. He advised waiting to see how the fishery responds to the new regulations before considering additional changes noting that trap endorsements may become available on the market as a result of the changes.

Anna Weinstein (Audubon California): Provided early comment on future committee agenda topics. Expressed support for MRC discussion on prospective new aquaculture leases in Tomales Bay at March MRC meeting; Audubon plans to present options for spatial planning in Tomales Bay.

Geoff Shester (Oceana): Thanked Commission for passing the resolution opposing new offshore oil drilling off the West Coast.

Paul Weakland (commercial fisherman): Requested an audit of DFW expenditures, and transparent display of those expenditures when discussing actions. Craig Shuman offered to provide expenditure reports in future presentations.

Lisa Bettencourt (commercial fishing family): Provided early comment on halibut trawl permit transferability. Concerned that permit transfers from one boat to another owned by the same fisherman are not allowed unless there is specific irreparable damage to the vessel. Craig Shuman identified a possible opportunity for legislative change and recommended a conversation with Tom Weseloh, chief consultant for the Joint Committee on Fisheries and Aquaculture for a potential spot bill to strike a couple of words in statute to make transfers among an owner's boats possible. Commissioner Sklar offered to participate.

Chris Voss (commercial fisherman): Concerned about limitations of the Commission's Policy on Restricted Access; supports a review, but recommended Alaska's Commercial Fisheries Entry Commission as a model to work through challenges to implement in policy.

Andrew Rasmusson (commercial fisherman): Requested clarification as to whether the recent law prohibiting shark finning applies to the take of skate with set gillnet, trawl. Captain Puccinelli responded that yes, under the shark fin ban, skate wings and bay rays fall into that definition. The issue with the definition has been raised with the legislature and Tom Weseloh is looking into a possible change.

Mike McCorkle (Southern California Trawlers Association): Expressed concern over an "emergency situation" with ridgeback shrimp. He noted that when the fishery started, fishermen self-imposed limits to only fish during daylight hours on weekday while new fisherman are now

fishing every day and night. He recommended a regulation change to limit fishing to sunrise-to-sunset only as a starting point. (*Note: testimony was given following Agenda Item 9.*)

3. Discuss and possible recommendation for initial draft 2018 Marine Life Management Act (MLMA) master plan amendment

Craig Shuman presented an overview of the initial draft of the 2018 MLMA master plan for fisheries, which DFW released for a one-month public review. The primary goals of the amendment are to make fisheries management more efficient and identify an approach for prioritization. The intent of the plan is to serve as a guiding document for efforts, rather than being prescriptive. He highlighted the new management framework, which was developed to help identify what scale of management is appropriate while meeting the mandates of the MLMA.

Public Discussion

A robust and thoughtful discussion took place and covered several basic themes:

- Support for MLMA implementation reform and the master plan update.
- Interest in greater clarity on implementation, noting the distinction between providing clarity versus being prescriptive.
- Prioritization timeline: at what point can we expect to see the priorities?
- Interest in greater emphasis on enhancing collaboration and partnerships. Make sure DFW embraces the spirit of collaborative underpinnings as envisioned in MLMA; increase willingness to accept outside expertise.
- Interest in formalizing input from fishermen via fishing representatives or fishing advisory group to support communication and provide opportunity for feedback on proposal viability. Valerie Termini responded that public input will be invited at every level of development from fishermen, scientists, non-governmental organizations (NGOs), and agencies; Commissioner Sklar noted that the FGC process (including committees) offers an equal playing field for everyone.

Committee Discussion

Commissioner Sklar inquired if DFW could provide a timeline for implementation, such as time and cost to develop a specified number of fishery management plans (FMPs), noting it would be good for a more detailed discussion with the full Commission. In addition a timeline would support communicating what is needed to achieve the goals to the Governor's office and legislators. Craig Shuman responded that once the draft is submitted to FGC in February, DFW will have more time to develop possible timelines.

Committee Recommendation

Request that DFW begin to develop possible timelines for implementation after FGC receipt of the draft master plan in February 2018.

4. Fisheries Bycatch Workgroup (BWG)

(A) BWG presentation of recommendations report

BWG member Joe Exline represented the subgroup process to develop the BWG

recommendations report. The Committee co-chairs and Commission staff expressed their gratitude for the hard work of the work group members, notably the subgroup, and especially Joe Exline for his intensive focus to get the group to a recommendation within the master plan timeframe.

(B) Staff report on Fisheries Bycatch Workgroup recommendations report in 2018 MLMA masterplan

Susan Ashcraft gave an overview of the workgroup's accomplishments, especially those since the July MRC meeting. She highlighted the extensive efforts by the workgroup to provide a BWG recommendations report, with a significant amount of consensus, to DFW in August and to MRC for this meeting, for consideration in the draft 2018 MLMA masterplan section addressing bycatch. She noted that the report also highlights areas where consensus was not reached and several key themes. The report fulfilled the charge given to the workgroup by MRC and Commission.

(C) Discuss and possible recommendation for bycatch topics for 2018 MLMA master plan, including where consensus was not reached

Susan Ashcraft provided an overview of how the BWG recommendations report was integrated into the initial draft master plan prior to DFW release for public review. All areas of consensus were integrated into Chapter 6. Sections of proposed text where consensus was not reached were generally not integrated, consistent with the MRC recommendation to discuss non-consensus topics at the MRC meeting. BWG held a final meeting in October, reviewed the public draft, and prepared consensus comments for DFW. BWG also prioritized several key non-consensus themes to highlight for MRC discussion, which offered the differing perspectives of BWG members.

Public Discussion

BWG members highlighted that non-consensus options reflected differing views on what level of prescriptive details and defined actions are appropriate within the master plan. Some viewed the proposed additions as improving clarity and defining actions, while others considered them to be too prescriptive.

Details of the non-consensus themes were highly complex, and the MRC co-chairs clarified that their goal was to engage in a general discussion on the trade-offs and considerations associated with top priority topics, rather than to develop specific MRC recommendations for individual non-consensus topics. Therefore, the discussion was held to clarify stakeholder perspectives and inform refinement of the draft master plan before DFW submittal to FGC in February 2018.

The discussion touched on a few prioritized topics:

- *"Incidental Catch" and management level*
Request for greater clarity on how incidental catch, as defined in the initial draft 2018 master plan, will be "managed to the sustainability standards of the MLMA." Some members expressed a strong preference for transparency in the master plan application of the scaled management approach, prioritization, or review for acceptable levels as with discarded bycatch. Craig Shuman clarified that the determinations are made as each fishery is reviewed to develop an FMP based on

information on catch and how to manage it. Being more prescriptive in this plan could come at the expense of being flexible in making proper determinations on a fishery-by-fishery basis during FMP development

- *Relative vs. cumulative bycatch levels*
Two criteria in evaluating bycatch acceptability pertain to “threat to the sustainability of bycatch species” and “ecosystem impacts.” Discussion centered around whether the relative impact of the individual fishery on the species, versus impacts to species from cumulative human-caused mortality, should be evaluated. A BWG member expressed concern that under that scenario a California fishery could be “punished” for variables that are beyond its control (e.g., other less regulated fisheries). Others consider this an important component of sustainability considerations for some bycatch species, such as marine mammals or sea turtles.
- *Language on determining “unacceptable” versus “acceptable” bycatch*
Some BWG members asked who would evaluate bycatch and make the ultimate determination regarding acceptability or unacceptability by type and amount. Commissioner Sklar responded that the bycatch evaluation framework has to provide sufficient flexibility for each situation while providing a scientific basis for decisions. The co-chairs agreed that the Commission will largely depend on DFW for where to draw the line, noting the Commission makes decisions based on science and public input.

Joe Exline provided a concluding remark for BWG. He shared the view that being involved and providing input before DFW released a draft report was a unique opportunity. A lot of work went into developing the BWG document to contribute to the master plan and many of the members expected DFW to provide guidance on the level of prescriptiveness or specificity to include, based on DFW’s role.

Committee Discussion

Commissioner Silva offered that this conversation will be continued and MRC co-chairs will consider further guidance and recommendations for the Commission. Commissioner Sklar supported this and stated that the committee co-chairs will be considering this item more deeply during the public review process. The co-chairs requested that DFW take the comments of BWG as well as MRC discussions into consideration as it revises the initial draft for Commission receipt in February 2018.

Committee Recommendation

Endorse the integration of BWG consensus recommendations related to bycatch evaluation in the draft master plan. MRC commends the BWG members for their hard work and recommends that FGC disband BWG as it has met its charge.

5. **Incidental take in invertebrate commercial fisheries**
 - (A) **Discuss regulation change options for box crab and king crab incidental take**
 - (B) **Discuss requests for experimental fishing permits to target box crab and octopus**

Julia Coates presented background on increases in the take of box crab and California king crab, species authorized to be taken incidentally in other fisheries; this has been

primarily seen in rock crab traps, although some increases have been seen in lobster trap, set gillnet, and other gears. While incidental take is authorized for all non-Cancer crab species, no incidental take limits have been established. DFW is concerned about the increases in volume as little information about the stocks or sustainable harvest levels are known. Several fishermen have requested experimental gear permits to target the crab species (two formally to FGC; half a dozen or more informally).

- (A) DFW proposes an incidental take trip limit through regulation for trap fisheries of 50 pounds per trip for all non-crab species (except Tanner crab), except a 25 pound per trip limit for *Lithodidate* crabs (including box crab and California king crab).
- (B) The lower trip limit would serve to accommodate a proposed experimental gear permit program to allow targeting of box crab for collection of biological and stock information. Details on participation, requirements, observer coverage, etc., would need to be developed.

Public Discussion

Several commercial fishermen in attendance offered insight about the distribution of the crab species, harvesting methods, along with considerations and recommendations for gear configurations, avoiding entanglement, and structuring an experimental gear permit project. Fishermen are interested in engaging during the design phase for the experimental project. An environmental NGO representative expressed support for an experimental gear permit with this gear. Craig Shuman noted that this was a good discussion to have on the heels of the bycatch discussion. DFW wants to explore opportunities on how to proceed and to build the fishery from the bottom up.

MRC Recommendation

(A) Regulations: Approve developing a proposed regulation to set an incidental take commercial trip limit for *Lithodidate* crabs (including box crab and California king crab), and a limit for all other non-Cancer crab species (except Tanner crab) as proposed by DFW; and

(B) Experimental gear permit requests: Approve DFW recommendation to develop a proposal for using experimental gear permits to investigate sustainable levels of box crab harvest.

6. Pink shrimp

(A) Department overview of commercial trawl fishery and capacity goal

(B) Discuss and possible recommendation for pink shrimp fishery regulations

Julia Coates gave a presentation about the commercial pink shrimp trawl fishery regarding (1) capacity goal and changes in capacity within the fleet over time; (2) fleet interest in marine stewardship council (MSC) certification, and management changes and improvements that would be necessary, and (3) fleet interest in re-opening state waters for pink shrimp trawling (Pt. Reyes to Cape Mendocino), providing discussion of scientific information needs and requirements.

Capacity has changed in the number of permits over time associated with the federal trawl buyback program and permit attrition; many permits are not being actively fished. Some fishermen have sought permits to enter the fishery but have not been able to find any available for purchase, and thus two have requested new permits be issued by DFW. DFW believes the capacity goal in regulation is no longer appropriate, and does not recommend changes to the transferable permit program or issuing new permits. However, there are regulatory options that could be explored to provide for movement of existing permits.

The fishery applied for MSC certification in Washington and Oregon, but California was not certified due to certain management concerns. DFW concurs that changes in management are needed not just to fulfill requirements for MSC certification, but also to address current management concerns. Research is needed on bycatch rates and effectiveness of bycatch reduction devices, and interaction of gear with seafloor habitat, among other things. DFW recommends that actions be prioritized and pursued for the fishery and its current participants; this could include regulatory changes (remove current capacity goal and required 3-year review cycle, set a harvest control rule, require LED lights as a bycatch reduction measure, and clean up other regulatory items) and research (bycatch rates, test bycatch reduction devices, habitat-gear interactions, etc.).

Public Discussion

Two fishermen seeking permits provided comments on trying to join the fishery. Both had actively sought a permit on the market to no avail. Both fish Oregon waters or fish California waters and must transit back to Oregon to land catch without access to a California pink shrimp permit. Based on the challenges, both submitted regulation change petitions to FGC for new permits (transferable or non-transferable). They desire to enter an underutilized fishery in California for the economic gain of fishing communities and their businesses.

One fisherman commented that there had not been a review of the fishery in ten years; only 35 permits are remaining, and not many people are fishing. This is not a resource concern – pink shrimp is underutilized, and his family and fishing community are in great need of additional fishing opportunity for the future. It's a good fishery and business. Willing to collect data necessary for management needs and certification.

Comments from several fishing representatives focused on the relevance to fishing communities, changes and resulting loss of infrastructure or processors, and difficulty building new opportunities to sustain the community, even when the resource is underutilized. The former harbormaster for Monterey noted that it has a community sustainability plan, which includes how to support current fishers and support new entrants. This fits with those goals, would be great to have that fishery in this region. It's a clean fishery but there are still some things that can be done to make it better. Supportive of request to allow more permits or short-term permits.

One commenter expressed concern about bycatch rates of eulachon and the threat posed to its recovery; supports DFW recommendation to require LED lights and test if bycatch rates for eulachon drop here as much as seen in studies elsewhere. Commenter sees a lack of evidence to reopen closed areas. Ecosystem impacts need

to be clarified and issues addressed before opening new areas to the fishery.

DFW offered to reach out to the northern pink shrimp fleet to inquire if a permit is available for petitioners seeking permits. However, DFW believes management issues in the existing fleet should be addressed before issuing any new permits and has concerns over equity.

MRC Recommendation

(A) Capacity goal and regulations: Approve DFW recommendation to develop a rulemaking to address management issues – including capacity goal removal, bycatch reduction, and harvest control rules – and explore additional management and research goals for the current fishery; identify priorities for near-term-action, and return to discuss recommendations and timing for next steps.

(B) Petitions for new permits: Deny petition for new pink shrimp trawl permits due to the priority to revise regulations and address management concerns in the existing fishery.

7. Discuss California halibut commercial trawl fishery permit structure and transferability

Travis Tanaka provided an overview of the fishery, permits, and permit transferability. Narrow provisions defined in Fish and Game Code govern conditions allowing transfer of permits; these are in place until a restricted access program is adopted.

Public Discussion

Halibut trawl permittees explained how the law inhibits their ability to adapt their practices. They cannot move their permit to a new boat they own, unless the old boat is disabled or lost. Transferability of permits among family members needs to be allowed. The requirement that a fisherman above age 65 retire from all commercial fishing to transfer the permit with their boat is not realistic and would prevent them from continuing any fishing work.

Craig Shuman noted that the only authority that the Commission has to change the transferability limitations is to adopt a restricted access program, which it recommends be in the context of FMP development – California halibut is a strong candidate for the next FMP, but it will be a significant undertaking. Fish and Game Code can be made inoperative through FMP adoption, or modified through a legislative change. There may be an opportunity to propose simple wording changes through a bill this legislative session to address the permit transfer challenges in the near-term; Tom Weseloh, chief consultant to the Joint Committee on Fisheries and Aquaculture, is the suggested point of contact to assist.

Commenters highlighted other concerns with operation of the fishery, including the loss of most fishing grounds in state waters, incompatibility of federal/state trawl gear rules and gear-switching challenges, underutilization of permits, and loss of markets to imported fish; these can be addressed sequentially with transferability concerns in near-term, FMP development next, then consideration of more global concerns.

MRC Recommendation Direct staff to work with Tom Weseloh, chief consultant to the Joint Committee on Fisheries and Aquaculture, for a potential bill this legislative

session to ease provisions for transferring halibut trawl permits until a California halibut FMP is developed. Support staff to consult with permittees to clarify needs, and reach out to Tom Weseloh to explore options.

8. Update on red abalone fishery management plan development

Craig Shuman provided a verbal update; this topic is scheduled for more detailed discussion at the December FGC meeting. DFW is working on the harvest control rule, considering how to integrate recent experiences on the north coast, and exploring more collaboration.

Public Discussion

A fisherman commented that he appreciate efforts to incorporate high quality analysis. The Nature Conservancy has done a good job in developing a collaborative harvest control rule and management strategy evaluation tool that is rigorous and well-crafted.

A former commercial abalone diver reiterated interest in an experimental small-scale commercial and recreational fishery at San Miguel Island through an experimental fishing permit. He has through details for such an experiment. Other suggested opening small scale opportunities in other areas currently closed to take pressure off the north coast and test new areas. Commissioner Sklar and Craig Shuman discussed prospects of exploring an experimental fishery. The FMP is focused on the north coast, but an experimental fishery could be explored under the ARMP. Given the stage in the FMP and the priority to complete the north coast FMP, this would have to be sequential, not concurrent. MRC concurred that the north coast FMP was first priority and, once completed, was open to exploring a possible experimental south coast fishery.

9. Update on California coastal fishing communities regional public meetings

Since the July MRC meeting, coastal fishing community meetings have been held in Ventura, Atascadero, and Monterey, with another scheduled for San Diego in December and additional meetings in early 2018. Common themes have emerged such as needing access to a range of diverse fisheries, competition for space with other uses on-water and shore-side. Each port area seems to have a pressure it is facing that is unique to the area. Commission staff will develop a summary of findings, options, and recommendations following the coastal meetings. Fishing community members reinforced concerns and opportunities from the perspective of their region.

Public Discussion

Several participants expressed support for the meetings and Commission focus on this topic. Commenters agreed that it is valuable to hear local input from communities and the importance of supporting California fishermen. There was agreement that reducing dependence on foreign fish and supporting California fisheries is important so that Californians have access to local rather than imported seafood. An environmental NGO representative stated they would like to support access while not going backwards in allowing destructive fishing methods.

MRC Direction

MRC requested staff to identify both short-term and long-term actions that could be considered, and to reach out to other agencies that may serve a role.

10. Marine debris

(A) California Ocean Protection Council (OPC) 2017 draft Ocean Litter Prevention Strategy - presentation by OPC staff, and discuss possible recommendation for endorsement

Paige Berube presented an overview of the process and progress in updating OPC's ocean litter strategy. A workshop will be held in late November, and a draft strategy presented to OPC in spring of 2018. She highlighted action items included in the draft that would support fisheries and marine habitats.

Staff from Heal the Bay highlighted their involvement in the ocean litter strategy to address specific recommendations and recommended increased direct involvement by DFW – it has a workforce of scientific aids in the field that could assist with marine debris data collection and reporting.

(B) Lobster trap loss prevention best practices - video and introduction by Channel Islands National Marine Sanctuary staff

Sherry Lippiatt from the NOAA Marine Debris Program, introduced the film and its purpose. This was a collaboratively-produced video between NOAA National Marine Sanctuary staff, DFW staff, and commercial lobster fishermen, and was funded through the NOAA Marine Debris program.

(C) Staff and agency updates

- *Ocean Protection Council (OPC)*: Paige Berube presented updates regarding California attendance at COP 23 in Germany, and roll-out of a competitive grant program derived from Proposition 84 funds.
- *DFW - Law Enforcement Division*: Captain Puccinelli provided an update on citations in marine waters, including abalone poaching, and marine protected areas violations. Commissioner Sklar requested a future presentation from the abalone enforcement unit to speak to the poaching problem. Captain Puccinelli will look into this.
- *FGC*: Susan Ashcraft announced that a new Sea Grant State Fellow for 2018 has been matched with the Commission and will join staff in March 2018.

(D) Future Committee agenda topics

a. Review work plan agenda topics and timeline

Susan Ashcraft reviewed the updated work plan and highlighted potential agenda topics for the March 2018 MRC meeting.

b. Potential new agenda topics for FGC consideration

No new topics were identified.

The Marine Resources Committee adjourned at 4:35 p.m.