

STAFF SUMMARY FOR DECEMBER 12-13, 2018

11. BOX CRAB EXPERIMENTAL GEAR PERMIT**Today's Item**Information Action

Receive and consider approving requests for box crab experimental gear permits (EGPs) for participation in DFW's box crab EGP program.

Summary of Previous/Future Actions

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| • Approved MRC recommendation for incidental take limits rulemaking and EGP program | Dec 6-7, 2017; San Diego |
| • MRC update on EGP program | Jul 17, 2018; MRC, San Clemente |
| • Received draft EGP criteria and conditions | Oct 17, 2018; Fresno |
| • Today consider approving EGP requests | Dec 12-13, 2018; Oceanside |

Background

Pursuant to Fish and Game Code Section 8606 governing development of commercial fishing gear, FGC has authority to approve EGPs, to be issued by DFW. The Commission may approve issuance of EGPs for the purpose of authorizing new types of commercial fishing gear and authorizing new methods of using existing commercial fishing gear. Permits are subject to any conditions FGC deems necessary to ensure proper utilization and protection of marine resources, and to minimize user group and resource allocation conflicts.

Since late 2017, DFW has been developing a collaborative research program designed to study brown box crab through FGC-approved EGPs that would be issued to commercial trap fishermen who are willing to meet conditions necessary for the project. See exhibits 1 and 2 for detailed background. The research will explore using existing fishing gear in a new way. The collaborative research program would support emerging fisheries, as mandated by the Marine Life Management act, by providing the necessary information to determine if the box crab resource represents a viable new fishing opportunity. If FGC approves the issuance of EGPs, the collaborative research program would permit fishermen to target box crabs through the use of existing commercial fishing gears used according to new methods.

At the Oct 2018 FGC meeting, DFW presented an overview of the research design and costs, and proposed EGP participation criteria and permit conditions, which were vetted in two meetings with interest industry members and with MRC (Exhibit 3). Based on funding secured by DFW to offset costs of electronic monitoring equipment and program participation, DFW recommended that eight EGPs be issued. To avoid spatial concentration of fishing effort, DFW proposed that the eight permits be distributed according to fishing study regions with three permits issued to fishermen operating north of Point Conception, and five permits issued to fishermen operating south of Point Conception into one or more sub-regions.

Following the Oct 2018 FGC meeting, commercial trap fishermen interested in a box crab EGP, and willing to meet research requirements, permit terms and conditions, and cost-sharing needs, were asked to submit requests to FGC and specify their desired fishing region. Fishermen were also informed that if more than eight requests were received, that a drawing may be necessary to assign an order of consideration for the eight funded EGPs.

STAFF SUMMARY FOR DECEMBER 12-13, 2018

FGC received written requests from 15 commercial trap fishermen (Exhibit 4) and forwarded the requests to DFW for review. Of these fishermen, 3 wish to fish north and 12 wish to fish south of Point Conception. DFG found that all 15 fishermen would be capable of operating under the proposed EGP due to the following: (1) possession of a valid invertebrate trap fishery permit, (2) agreeing to all draft permit terms and conditions, and (3) possession of a vessel with the capability to carry an observer (Exhibit 5).

Significant Public Comments (N/A)

Recommendation

FGC staff: Approve allocating three EGPs to the area north of Point Conception; approve allocating five EGPs to the area south of Point Conception; determine what permit conditions to include in each EGP. Direct staff to identify the fishermen who would receive the permits using a list of names from a drawing establishing the order for consideration, to be conducted immediately after the Commission recesses on the first day of its Dec 12-13, 2018 meeting:

- (1) Approve EGPs for the three applicants requesting to fish in areas north of Point Conception and the first five in the established order that requested to fish south of Point Conception, to (a) be issued sequentially in the order drawn for the south, (b) become effective for 12 months upon Apr 1, 2018 and receipt of cost-share as specified, and (c) be renewed annually for up to three years upon receipt of annual cost-share payment.
- (2) Approve EGPs for the remaining applicants, to be issued sequentially in the order drawn and in the region for which they applied, that would only become active when either: (a) a newly funded EGP in that region opens, or (b) a permittee declines to participate or withdraws voluntarily or involuntarily, thereby opening a funded EGP.
- (3) All applicant names will be drawn and the order of selection recorded. If a selected participant declines, fails to submit cost-sharing funds, does not agree to and abide by all permit terms and conditions, withdraws, or is removed during the permit term, the permit will be offered to the next potential participant in order drawn. If a future fishery is developed, access to or preferential treatment regarding future permits of any type is not implied by participation in the EGP program.

DFW: See Exhibit 5 for DFW recommendations.

Exhibits

1. Staff summary for Agenda Item 11, Jun 20-21, 2018 FGC meeting (for background only)
2. Staff summary for Agenda Item 12, Oct 17, 2018 FGC meeting (for background only)
3. DFW presentation from Oct 17, 2018 FGC meeting
4. Table of fishermen who submitted EGP statements of interest
5. DFW memo, list of applicants, and draft EGP permit, received Dec 6, 2018
6. DFW memo and draft notice of exemption, received Dec 6, 2018

STAFF SUMMARY FOR DECEMBER 12-13, 2018

Motion/Direction

Moved by _____ and seconded by _____ that the Commission determines that the project is exempt from CEQA as being categorically exempt and approves the staff recommendations for the box crab experimental gear permits, and approves the proposed terms and conditions as discussed today.