California Fish and Game Commission
Coastal Fishing Communities Project

DRAFT Analysis of Staff Recommendation 3: "Approve specific, small-scale projects to test and evaluate proposed new approaches"

March 10, 2021 Draft

Background

In 2019, the California Fish and Game Commission (Commission) Marine Resources Committee (MRC) received a final *Staff Synthesis Report on Coastal Fishing Communities Meetings, 2016-2018*, which included a list of ten staff-recommended options for potential Commission action in response to input received during the meetings. The staff recommendations were advanced as initial concepts, and MRC directed staff to more fully develop and evaluate them to help guide the Commission in determining which, if any, to pursue in support of coastal fishing community needs. Each staff recommendation (SR) is being evaluated using a draft standardized analytical approach that was presented to MRC in July 2020, which focuses evaluation around four categories: I. *Basic informational needs*; II. C*urrent regulatory and policy context*; III. P*otential Commission role*; and IV. C*osts and benefits*.

Overview of Staff Recommedation 3

This evaluation is for SR 3, to "approve specific, small-scale [fisheries] projects to test and evaluate proposed new approaches." As contextualized in the 2019 staff synthesis report, stakeholders have requested that the Commission allow for stakeholders and partners to develop small-scale projects and test new approaches in California fisheries, acknowledging that stakeholders, including fishing permit holders, can be key in helping to create, design and define these projects in consultation with the California Department of Fish and Wildlife (Department).

I. Basic Informational Needs

The first informational need to be met is identifying what different models or approaches could be employed to authorize new approaches on a small scale; this will require information gathering to determine how approaches could be implemented in compliance with statute, and how various approaches may affect staff time investment and collaborative investment from the Department and other agencies. Staff will also need to assess how different approaches affect or include different members of the community. For example, does this include industry representatives willing to volunteer without compensation? If fishing community members participate, is there a means to compensate them?

The second informational need is how these possible approaches fit into the California fishery context. It will be valuable to consult with fishing community members regarding their ideas for small-scale ideas or structures to test based on the concerns their specific communities are facing. Community members and Commission staff would then need feedback from Department managers regarding the feasibility of the proposed projects, adaptations to make them more feasible, and prospects of the project being an option for full implementation in the future if successful. A framework will need to be developed for how to evaluate ideas that

come forward, not just for the sake of testing concepts, but for their potential to help fishing communities and fisheries management adapt to meet emerging needs and challenges.

There are many external agencies and organizations, such as the California Ocean Protection Council (OPC), the California Ocean Science Trust, and NOAA Fisheries, that may provide relevant guidance or models for similar action. One program is the federal exempted fishing permit program considered through regional fishery management councils and administered by NOAA Fisheries. The program is managed on a region-by-region basis and covers fisheries under federal jurisdiction.

II. Current Regulatory and Policy Context

The new experimental fisheries permit (EFP) program, authorized through statute effective January 1, 2019, provides one readily-available pathway for the Commission to approve pilot projects without amending regulations. Such projects could, at an exploratory level, allow for departures from the Commission's policy on restricted access commercial fisheries or current fishing permit structures, which would otherwise require regulatory changes, or could provide opportunities for small-scale fishing designed to help fill information gaps consistent with guidance from the Marine Life Management Act master plan for fisheries. Regulatory frameworks for experimenting with different management structures may be preferred for projects that require longer time frames than allowed under the EFP program, but a regulatory approach is less flexible than the EFP program and requires more time and staff investment.

Development of the EFP program is still ongoing at the time of this writing, though a rulemaking is scheduled for 2021. This new program will provide a vehicle for exploring small-scale fishery projects through EFPs that allow compensatory fishing (i.e., selling catch) for experimental permit holders. There will be project-specific informational needs under this approach to clarify proposed goals and methods, assess feasibility with the Department, and think through implications relative to current management structures. EFPs are a vehicle that allows for more creatively testing ideas, in a manner that allows offsetting of participation costs through commercial sale of catch for commercial fisheries projects.

While the EFP program is an excellent step, the current proposed costs for experimental permits may be prohibitive for certain interested participants and, therefore, may make it challenging for some members of coastal fishing communities to participate without collaborators to help support the work. Staff discussions with industry members have shown that for this program to be a strong mechanism for exploring adaptation, the program may require a degree of flexibility to lower barriers to entry. Options for reducing costs under certain circumstances are being explored through the development of the rulemaking.

While new approaches and fishing opportunities could be be explored through EFPs, the Commission will need to consider the policy implications if tested approaches are implemented as long-term opportunities. Existing policies will need to be assessed for compatibility with the potential broader application and implementation of successful projects.

III. Potential Commission Role

The role of the Commission in this process will vary depending on the approach used. While the Commission has the ability to adopt regulations to allow new approaches in fisheries,

regulation development requires more time and lacks the uniform, defined structure per project of the EFP program. The EFP program provides the Commission a pathway to grant EFPs for fisheries within its purview upon adoption of regulations defining the program. The Commission has influence over how the EFP program is developed through the regulations it adopts, though implementation of the program in under the authority of the Department. The Commission will also play a role in determining which potential projects are granted permits. As the program is still in development, the Commission is positioned to provide guidance related to considerations of cost and structure for program participation.

Considering the potential for prohibitive costs, one indirect pathway to explore is collaboration among the Commission, potential permittees, and OPC or other funders. OPC's recently-released strategic plan for 2020-2025 includes a target to "implement pilot projects statewide to increase fishing communities' resiliency and adaptation to climate impacts by 2025", indicating it would be investing in the types projects envisioned in this recommendation. For projects the Commission deems valuable to explore for community resilience, but the permit costs make the project infeasible, the Commission could direct staff to seek to partner with OPC or other funders or assist potential permittees in applying for funding. For example, OPC recently funded experimental gear testing for commercial crab pop-up gear in partnership with the Department.

IV. Costs and Benefits

Adaptability

This recommendation could improve the Commission's ability to support adaptive management by allowing fishing community members to test and gain proof of concept for a wide variety of adaptive options and strategies. It could allow targeting of new species as their ranges change in response to climate, and allow for testing of new and more effective or sustainable gear types as they become available. If testing is successful, this could lead to longer term implementation of concepts through regulations adopted by the Commission. However, success hinges on a given community or community members testing options. Costs involved and time needed to procure a permit may be a limiting factor for how effective this can be at increasing adaptability. Options to assist with barriers to entry should be discussed.

Consistency

The Commission would need to be cautious about which projects it selects for testing under the auspices of this recommendation, and be mindful of those projects that explore options inconsistent with current fishery management structure, especially with respect to restricted access fisheries. For example, EFPs are not purely intended for research or to test new ideas; they are also designed to establish proof of concept for fishery strategies for potential long-term implementation. The Commission will need to be mindful of which projects it supports and approves for testing, as approving a project for a given fishery suggests that the Commission is willing to consider changes to the existing management structure for that fishery, including potentially restricted access fisheries. Such projects could raise concerns for those stakeholders whose livelihoods depend upon the fisheries as structured; those stakeholders should be active participants in discussions about any proposed projects. Reviewing the restricted access policy to see where there may be room for flexibility without undermining the

intent behind the policy, or investment by current fishery participants, should be considered before any testing relevant to restricted access species is granted.

Accessibility

This recommendation has the potential to increase accessibility. The fisheries for which accessibility is increased will depend upon the permits and tests approved, and impacts to species will be variable. The current EFP pathway accounts for this, as assessing those impacts is intended to be part of the scoping and research process inherent to EFPs. In terms of fishery participants, this recommendation has the potential increase accessibility on a number of levels. At the individual and community level, fishery participants would be able to pursue emerging gear types which may make access to existing fisheries more feasible when compared to a regulation change. The EFP program may allow exploration of new ways to allocate access to existing fisheries in new areas and potentially allow participants to pursue previously unexplored species as targets. Communities in southern California have been able to explore box crab as a new target species under EFPs. In general, this is likely to affect fishing communities positivily by diversifying their new portfolios via new access or new opportunities. In the short-term, the increase in accessibility would only be for EFP participants, but long-term changes resulting from the EFP program or other approaches to this recommendation may affect whole communities in a similar way.

Manageability

This recommendation would increase the management burden of the Department; this has already been observed in the development of the EFP approach. Under the EFP program as currently proposed, the increase in required management capacity depends upon the “tier” of the permit. Various “tiers” are proposed to be based on the different levels of oversight required, and some require direct oversight from the Department. Any expansions to the EFP program or additional pursuits under this recommendation outside of the EFP vehicle are likely to require the same. Testing of new gear needs to be verified and supervised in some way, and this responsibility would fall to the Department.

This recommendation may also introduce the potential for management changes that would cause concern among partners. For example, testing new methods in established restricted access fisheries is likely to cause concern to those who depend upon the existing restrictions. Additionally, introducing new gear types for testing may be a cause for concern for those invested in limiting the risk of potential bycatch and other gear impacts relative to California’s fisheries, yet provide a controlled environment for evaluating bycatch levels and gear impacts.

Affordability

Affordabilty/cost will depend on the approach pursued and the audience – whether Department, prospective participants, collaborators, or communities. Because the EFP program is the approach that is currently best defined, it is also the one for which costs are most predictable. If different approaches are developed or defined, affordability will need to be assessed for each of them.

The cost of Department and Commission staff admistering the EFP program will be significant, largely in the form of staff time investment. Commission staff will need to collaborate with the

Department to review and approve issuance of permits. Significant Department investment of both time and money is already required under the EFP program as proposed, especially for those permit tiers which require its direct oversight.

Further investment would be required from partners or fishing industry members, who will their own perspectives about affordability. The Department most recently presented details of the EFP program currently under development at the Marine Resources Committee's July 2020 meeting, where Department staff outlined a series of fees, as well as a technical evaluation, reporting, and review requirements, which will necessitate investment from interested partners. Investment in an experimental-scale project to test new approaches may lead to longer term financial productivity should the project be implemented into fisheries management.

Regulations establishing the EFP program are expected to be adopted this year (2021). Any changes or expansions to the program will likely come after, as the initial program will have to prove to be functioning before we can invest in potentially expanding its application. Any changes or expansions may require additional resource allocation as well, though the exact details of that are beyond the scope of this analysis.

Resilience

Long-term, this recommendation has significant potential to contribute to resilience, as testing new approaches may introduce ways by which fisheries and communities can increase resilience. As the EFP program is currently the best-defined approach, it is the approach for which potential impacts to resilience are most easily projected. The EFP program would initially affect accessibility on a small, permit-by-permit basis. Over time, that may scale up to introduction of new approaches on a broader fishery or geographic scale that would enhance resilience for both fisheries and fishery participants.

However, for the EFP program to have an initial impact on a given community, that community would need to obtain access to an experimental permit. This requires a great deal of initial investment in money, time, and work. That investment requirement means it will take time for this recommendation to build to a level where it can effectively improve resilience. Allowing adaptation to emerging species as climate changes shift ranges, granting communities new access, and testing gear could lead to programs that better support resilient fishing communities.