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*Wildlife Heritage and Conservation
Since 1870*

Melissa Miller-Henson
Executive Director
P.O. Box 944209
Sacramento, CA 94244-2090
(916) 653-4899
fgc@fgc.ca.gov
www.fgc.ca.gov

NOTICE OF RECEIPT OF RECOMMENDATION AND CONSIDERATION OF EXPERIMENTAL FISHING PERMIT APPLICATION

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 1022 of the Fish and Game Code (FGC) and Section 91, Title 14 of the California Code of Regulations (CCR), on [insert date] the California Department of Fish and Wildlife (Department) transmitted to the California Fish and Game Commission (Commission) a recommendation regarding an Experimental Fishing Permit (EFP) application from Kim Sawicki of Sustainable Seas Technologies (applicant) to conduct a collaborative research project aimed at testing fishing gear innovations in an experimental brown box crab and California king crab fishery to mitigate the risk of marine life entanglements. Consistent with subsections 91(e)(2) and (91)(f), Title 14 CCR the Commission has scheduled the EFP application for consideration at its June 14-15, 2023 meeting in Sacramento.

Application Amendments

During the technical review process pursuant to Section 91 (d)(2), the Department may request additional information from the applicants and project descriptions may change based on this correspondence to provide additional clarification and refinement so that it better meets the goals and objectives of the EFP program. Through technical review of this application, the Department identified substantive issues regarding the proposed EFP fishing activities. The Department's concerns primarily related to marine life entanglement risk due to the proposed use of traditional trap gear and associated vertical lines, and the relatively minimal proportion of gear to be used for pop-up testing. The request to participate in other fisheries during EFP trips also required careful consideration. Following discussions between the applicants and Marine Region staff about these concerns, the amended application proposed the exclusive use of pop-up gear in lieu of traditional fixed gear while fishing for brown box crab and CA king crab, as well as changes to allowable fishing seasons and areas.

During technical review, additional changes were made in the amended application to the identities of the applicants and their roles. Three of the original applicants (Marcos Voyatzis, Matthew Liso, and Devin Grace) informed the Department that they are no longer interested in pursuing permits and would like to be withdrawn from the application. An amended application was submitted to the Department on April 8, 2023. The amended application requested a single permit with Ms. Sawicki (formerly listed as the entity administrator) as the permit applicant and Dannial Major and Gregory Olsen (formerly listed as permit holders) as authorized agents.

EFP Project Description

The amended application requests a Tier 4 EFP (one of four tiers of permits based on purpose and Department facilitation) to build on a previous EFP project for an experimental fishery for brown box crab (established in Section 90, Title 14, CCR), which was approved by the Commission in December 2018 and expired on April 1, 2023. The proposed project would test the effects and efficacy of using pop-up fishing systems (also known as “ropeless,” “lineless,” and “on-demand” fishing systems) and continue an experimental fishery targeting brown box crab and California king crab to collect biological and fishery data to help fill critical information gaps for these species.

The pop-up fishing systems proposed for testing include four acoustic on-demand release and line management products: Desert Star Systems, Fiomarine, Ropeless Systems, and Subsea Sonics/Guardian Ropeless Systems. These systems are designed to store lines and buoys at depth on a trap until they are released, minimizing the amount of time a vertical line is suspended in the water. Testing of the pop-up fishing systems would follow a three-phase approach. Any authorized agent (pursuant to subsection 91(b), Title 14, CCR) must first demonstrate core competency with all equipment, devices, and data collection protocols and work with Sustainable Seas Technology staff and gear manufactures to finalize individual gear configurations at sea using an attached backup line and a surface marker buoy while the gear is actively tended (Phases 1 and 2) before exploratory fishing with pop-up gear systems can begin (Phase 3). Pop-up systems would be used on 100% of the gear deployed while fishing for brown box crab and California king crab. Electronic monitoring of vessel locations would be used in addition to the electronic reporting of the locations and times of trap deployments and retrievals.

The proposed project would occur off the coast of California between Point Conception and the California/Mexico border in water depths ranging from 60 to 150 fathoms, excluding any Marine Protected Areas and Essential Fish Habitat closures for bottom contact gear. Experimental fishing would take place year-round for up to four years. The proposed project would include between 2 to 10 authorized agents and five authorized vessels. An annual fishing quota of 36,000 pounds of brown box crab and 36,000 pounds of California king crab is proposed per vessel. A maximum of 75 traps would be set in strings of up to seven traps, per vessel. Traps would soak for a maximum of 96 hours, unless weather or other safety reasons cause a delay. Data will be collected on fishing effort and catch using forms provided by the Department, and observers may be required at the request of the Department.

Department Recommendation

The Department carefully considered the information provided on the amended EFP application, and determined that the proposed project must be exempt from the following statute and regulations:

- Fish and Game Code Section 9005 (requires marking traps with a surface buoy);
- Subsection 125(b)(3), Title 14, CCR (prohibits pop-up buoy systems on board a vessel while rock crab fishing);
- Subsection 126(b)(1), Title 14, CCR (25-pound catch limit for brown box crab and California king crab).

In completing its technical review, the Department recommends the Commission approve a Tier 4 EFP for purposes of conservation engineering, data collection, and exploratory fishing

with the proposed special conditions. If approved, the proposed special conditions together with the standard terms will ensure the protection of marine resources and allow the Department to adequately enforce the EFP. The proposed special conditions of the EFP (specified on form DFW 1103) are attached for the Commission's consideration, which include the following (specific changes to the proposed project and their associated justifications are marked with an asterisk* and are in **bold italics**):

- General requirements for valid commercial licenses, permits, and vessel registration
- Maximum number of authorized agents that may participate in the proposed project
 - *** for management and conservation purposes, a maximum of five vessels may be listed to match the capacity of first EFP**
- Authorized Species, Take Allowances, and Landing Requirements
- Gear Allowances, Specifications and Marking Requirements
 - *** for identification of EFP gear and enforcement purposes, every buoy shall be marked exclusively with the Identification Letters "EB" with at least one buoy marked with the operator's commercial fishing license identification number followed by the Identification Letters "EB"**
 - *** for identification of EFP gear and enforcement purposes, all buoy lines deployed with pop-up gear shall have pink marking 12 inches from the buoy end and the trap end, and in the center of the line**
 - *** for enforcement purposes, a maximum of seven traps per string of authorized gear is allowed**
- Pop-up Gear Testing Requirements
 - *** for management and enforcement purposes, the Department shall be notified when Phase 3 begins for each permittee and provide descriptions of the pop-up gear configurations and the gear marking applications being used**
- Allowable Fishing Area and Time of Year
 - *** for management and enforcement purposes, no traps or gear shall be used shallower than 60 fathoms or north of Point Conception (34° 27' N. latitude)**
- Vessel monitoring and tracking requirements
 - *** for research and enforcement purposes, no testing or fishing for crab may take place under the EFP unless a functioning electronic monitoring system that is capable of recording the vessel's geographic location at a frequency of at least once per minute is installed and used**
- Observer requirements
 - ***for research purposes, authorized vessel operators may be responsible for contracting with a professional observer company, contrary to the request made in the amended application that the Department bear the cost**
- ***Best practices for avoiding whale entanglement for conservation and management purposes**
- ***Data collection and sharing requirements for research, management, and enforcement purposes**
- ***Reporting requirements for gear malfunctions, lost gear, and recovery efforts for research and management purposes**

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- Other requirements necessary for research purposes and the protection and conservation of marine resources and the environment in accordance with applicable laws and regulations

If approved, the proposed special conditions together with the standard terms of the EFP will ensure and allow the Department to adequately enforce the permit in accordance with FGC Section 1022 and Section 91, Title 14, CCR.

The Department recommends approval of a permit fee reduction pursuant to subsection 91(m)(3), Title 14, CCR. If approved, this would provide information on innovative fishing gear and techniques to reduce interactions with protected species and test methods for identifying fixed-gear fisheries in the event of an entanglement. Furthermore, it would allow the collection of important biological and fishery data to help fill critical information gaps for brown box crab and California king crab.

The application, Department recommendation, and other information in the records before the Commission are posted on the Commission's website at <https://fgc.ca.gov/EFP>.

Written comments on the EFP application and/or Department recommendation must be received by noon on June 9, 2023 and may be emailed to fgc@fgc.ca.gov or mailed to California Fish and Game Commission, Attn: EFP, P.O. Box 944209, Sacramento, California, 94244-2090. Oral comments will be accepted at the Commission's June 14-15, 2023 meeting.

May 12, 2023

Fish and Game Commission

Melissa Miller-Henson
Executive Director