



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1315 East-West Highway
Silver Spring, Maryland 20910

October 10, 2024

Craig Shuman
Marine Region Manager
California Department of Fish and Wildlife
715 P Street
Sacramento, CA 95814

Dear Mr. Shuman,

As we have communicated to the California Department of Fish and Wildlife (CDFW) over the last several months and most recently this week, NMFS's Office of Protected Resources is concerned with CDFW's proposal to delay implementation of line marking until 2028, as is currently included in the CDFW's latest draft Incidental Take Permit (ITP) application and Conservation Plan. For NMFS to issue an ITP, the Conservation Plan must be consistent with permit issuance criteria outlined in both the Endangered Species Act section 10(a)(1)(B) and its implementing regulations (50 CFR 222.307). These criteria include the assurance that with issuance of an ITP and implementation of the Conservation Plan, CDFW will monitor the impacts of the incidental taking from the Dungeness Crab Fishery to the maximum extent practicable ("monitoring issuance criterion"). Based on the information we currently have, NMFS has concerns about whether the current draft plan would meet this criterion.

Based on the available information before us at this time, NMFS anticipates that line marking will likely be needed in order for the plan to meet the monitoring issuance criterion, by helping CDFW determine whether entanglements can be fairly attributed to the Dungeness Crab Fishery. An effective monitoring plan would also be needed to properly monitor the impacts of incidental take and implement the draft Conservation Plan's proposed minimization measures through adaptive management.

We appreciate CDFW's commitment to fully marking all vertical buoy lines by 2028. However, based on preliminary information and documents received to date, NMFS has doubts that CDFW's plan would provide monitoring to the "maximum extent practicable." NMFS urges CDFW to further consider alternatives that would increase monitoring capability more quickly. Possible alternatives to consider could include an earlier implementation date for achievement of 100% line marking or phasing in line marking during the 2026 and 2027 seasons (*e.g.*, 25-50% of lines marked in 2026, 50-75% of lines marked in 2027). NMFS also recommends possible consideration of the practicability and effectiveness of additional supplemental aerial and vessel-based monitoring, especially prior to implementation of 100% line marking. Regardless of the alternative taken, CDFW's application will need to provide information sufficient for NMFS to determine that the measures proposed constitute the maximum extent practicable.



I encourage you and your staff to reach out to our staff in order to further discuss these issues. Please feel free to contact Kim Corcoran (kim.corcoran@noaa.gov), Celeste Stout (celeste.stout@noaa.gov), or Kristy Long (kristy.long@noaa.gov) with any questions.

We look forward to continuing to work with you on whale and sea turtle conservation in California.

Sincerely,

A handwritten signature in black ink, appearing to read "Kimberly B. Randall", with a long horizontal flourish extending to the right.

Kimberly Damon-Randall
Director
Office of Protected Resources