

MEETING SUMMARY | April 10, 2013

Spiny Lobster Fishery Management Plan

Lobster Advisory Committee



Meeting in Brief

DFW provided project updates on a range of issues including the increase in recreational report card returns; publication of the lobster fishery economic report; status of the Management Strategy Evaluation model; report back on caucus meetings with the recreational and commercial sectors respectively; and administrative assistance offered by the Fish and Game Commission to the spiny lobster FMP project. Lieutenant Eric Kord of DFW's Enforcement Division presented issues and challenges associated with lobster poaching across the range of the fishery. Finally, the LAC discussed and evaluated a list of introduced proposals that aim to improve management of the recreational sector. The LAC reached initial consensus on two proposals however no final decisions were made by the group. Commercial issues will be discussed at the next LAC meeting.

Next Meeting

May 29, 2013 | 8:00 a.m. – 3 p.m. | DFW office in Los Alamitos, upstairs in the DFW main conference room.

Action Items

Timeline	Name	Action Item
April 15	DFW	Distribute electronic copy of lobster fishery economic report
April 26	LAC	LAC Members and Alternates provide feedback on economic report; inform DFW if no comments or feedback will be provided.

FMP Project Updates

Recreational report card returns. DFW used an oversized “reminder postcard” sent out the first week of January to improve the return rate for recreational lobster report cards. As a result the reporting rate doubled (12,000 cards) for the 2012-13 season. Such a significant improvement in data collection enables further analysis and understanding of the recreational sector. Recreational participants are also now encouraged to submit report card data online. Individuals who are late or fail to submit report cards will be assessed a \$20 late fee upon purchase of a future card. Wardens working with the north coast abalone fishery at times take pictures of report cards to ensure accuracy of reporting and limit falsification of data. Southern enforcement officers intend to do the same thing for the lobster fishery. DFW recognized the LAC's critical role in getting Commission approval for these and other recent changes to the recreational lobster report card system.

An Economic Report on the Recreational and Commercial Spiny Lobster Fisheries of California. The LAC received hard and digital copies of the recently completed economic report of the lobster fishery. The report details a highly productive and economically valuable fishery. Preliminary landings from the 2013-2014 lobster fishing season record a catch of approximately 844,000 lbs, the third highest landing on record to date for the fishery. The recreational economic telephone survey doubled its initial sample size, which provided a

better understanding of the economic component of the fishery. DFW received extensive positive feedback from the public on both the survey process and results. The report will be summarized in an appendix of the FMP.

Management Strategy Evaluation (MSE) status. DFW has received the draft MSE model from its contracted developer. The model will run on DFW computers, and the developer will soon provide technical training to DFW staff on its use and application. DFW is also considering the modeling work of SRC team member Richard Parrish. It is currently unknown when MSE outputs will be delivered to the LAC for consideration.

Caucus meeting updates. Commercial and recreational interests each held caucus meetings with DFW in late February. Caucuses are not decision-making bodies. Any suggested management ideas generated during caucus meetings are subsequently brought to the full LAC for discussion and evaluation. Commercial interests discussed management challenges, articulated an ideal vision for the commercial sector and considered ideas that aim to achieve a desired state for the fishery. All parties present at the commercial caucus acknowledged the problem of too many traps in the water. At the recreational meeting, DFW and LAC members reached common ground on a host of issues and proposed regulatory improvements. LAC members subsequently discussed and evaluated a list of proposed recreational management changes (see below).

Melissa Miller-Henson. The Fish and Game Commission has offered the administrative assistance of Melissa Miller-Henson to the lobster FMP initiative. Ms. Henson is a project manager with the Commission and will help organize the FMP document and make it readable and user-friendly for the Commission and wider public.

Lobster Poaching Issues and Challenges

Lieutenant Eric Kord of DFW's Enforcement Division presented issues and challenges associated with lobster poaching across the range of the fishery. Poaching is a significant problem that negatively impacts both the commercial and recreational sector. DFW wardens regularly patrol southern California waters, from the Northern Channel Islands down to the US/Mexico border. Lt. Kord expressed support for the LAC process and noted appreciation for individuals who understand the value of the current regulatory framework (e.g. the importance of not taking lobster that is 1/8" under legal harvest size.) Two primary types of lobster poaching consistently affect the fishery:

- **Trap robbing (general)**
 - Common problem that poses a significant threat to the commercial fishery
 - Some poachers not only take lobsters but also destroy commercial traps
- **Trap robbing (use of mechanized pullers)**
 - Allows poachers to quickly pull a high number of commercial traps and steal the lobsters inside
 - Enables theft of traps in deep water (cannot be pulled by hand)

The challenge for wardens in each case is to catch poachers in the act of stealing. Education and media coverage may help judges and prosecutors understand the seriousness of the problem. In addition, the use of web tools such as "YouTube" could support broad public education on how to measure a lobster and determine legal/illegal size. The abalone fishery may offer a model of success and lessons learned if the LAC considers a seasonal limit for

spiny lobster. Comments, questions and open discussion following Lt. Kord's presentation focused on the following topics:

- **CalTIP**
 - How citizens can report lobster poaching and related issues
 - How DFW responds to CalTIP Reports
- **Use of the media**
 - How resource management agencies can serve as a conduit to secure media coverage on poaching issues as they occur
- **Penalties**
 - Pros and cons of civil versus criminal penalties
- **Catalina problems**
 - Challenge of early season poaching and use of "spreader" gear off the front side of Catalina island
- **Access to California Code of Regulations**
 - Online and other access to Title 14: Natural Resources Regulations
 - Need for clarity as to where complete Code can be accessed
- **Legality of trap recovery**
 - Traps on beaches should be reported, not recovered
- **Use of pop-ups to submerge buoys on traps**
 - Used in high boat traffic areas to avoid fouling propellers or having lines or buoys cut off
 - Helps some commercial fishermen to avoid poaching and predation by seals and sea lions
 - Not a commonly used poaching tool in MPAs (use of spreader gear is a much bigger issue)
- **Regional trends**
 - Depends on nature of violation
 - Trap robbing heavy in Orange and San Diego counties

Discussion and Evaluation of Proposed Recreational Changes

In February, DFW held caucus meetings with LAC members and alternates of the recreational and commercial sectors respectively. During the recreational caucus, all participants found common ground on a host of issues and thereby generated a list of proposed regulatory changes for consideration. DFW introduced these proposed regulatory changes for discussion and evaluation. The LAC reached initial consensus on two straw proposals (identified below). The LAC determined for various reasons that the other proposals require further exploration. Note that there is no priority assigned to the issues listed below, and no proposals received final LAC support. Commercial issues will be introduced, discussed and initially evaluated at the next LAC meeting.

Issue: Confusion over dates. Lobster opener and closure dates can be difficult to understand and constituents are having trouble following the law. The current midnight designation causes confusion as to whether the opener is Friday or Saturday.

Introduced proposal: *Season date change.* Make lobster opener 12:01 am, the last Saturday of September, and clarify the closure date in March. The current Wednesday closure dates are from March 16 to March 22. (Commercial season would open on the first Wednesday in October and close on the same day as the recreational season.)

Key discussion points

- Need clarity to address problem; issue may be regional
- Pick a specific date and time (e.g. noon; 9 p.m.)
- Put date and time on DFW recording
- Commission has a long tradition of not picking a date but instead having a Saturday opener so working people can participate
- Maintain access/time ratio between recreational and commercial
 - Proposal does not aim to expand access; recreational already fishes some places commercial cannot
 - Setting the date for the opener as the last Saturday in September could be problematic because in some years it will expand access (e.g. extra time for recreational harvest creates unfair advantage over commercial sector)
 - *Suggestion:* October 1 opener (recreational).
 - Commercial sector proposed October 3 opener for commercial or no later than five days after the recreational opener. DFW expressed concern that an October 3 commercial opener would change the current access/time ratio between recreational and commercial.
- Safety is key
 - Enforcement prefers a start time closer to dusk versus noon start time
 - Daytime start is important so new divers are not pressured to dive in unsafe conditions
- Consider feasibility of enforcement; economic and social impacts from date change
- Consider biological analysis of species to ensure appropriate harvest time; avoid opener that results in harvest of “soft” lobster
- Noon closure affects commercial sector; consider something other than midnight (e.g. 11:30 p.m.)

Summation: Issue needs further exploration.

Issue: Pre-fishing for lobsters with hoop nets before the midnight opener under the ruse of rock crab fishing. Dishonest fishermen are able to “stake claim” to areas and set their gear out before the opener while people who abide by the law lose out.

Introduced proposal: *Consider a hoop net fishing moratorium 12-24 hours before the lobster opener.*

Key discussion points

- People staking out territory is a real concern
- Can/would Commission support?
- Primarily a recreational problem involving hoop netters
- Commercial sector also faces pre-fishing problem
- A brief moratorium may help DFW Enforcement
- Potential exception for retrieving fish on public piers (regional issue)
- Is issue reduced or eliminated if daylight opener is put in place?

Summation: LAC consensus achieved (straw proposal); no final decision made.

Issue: Need to clarify “hooked device.” Spear fishermen have been cited for carrying a spear gun while in the pursuit of lobster. Constituents have asked for clarity on what “hooked” device is or is not.

Introduced proposal: *Make “use” not “possession” of a spear gun illegal.* Possession of a spear gun or pole spear underwater while hunting lobsters should not be illegal; the misuse of this equipment to take lobster should be illegal.

Key discussion points

- Need clarity on issue
- Possession of spear gun ok; use for lobster fishing not allowable
- Pole spears used more than spear guns to illegally “poke” into lobster holes
- Clarify allowable gun tip
- Wardens currently use discretion; defining hooked device may be difficult
 - Can help give wardens prima facie evidence to use in court
 - Consider elimination of “spear gun” from concept
 - Illegal use is not widespread but enforcement does issue citations
- Problem prevalent enough to warrant new regulation?

Summation: Issue needs further exploration.

Issue: Regulations require that a hoop net not be abandoned or left unchecked for more than two hours, but the law is abused.

Introduced proposal: *Mark hoop net floats.* Require hoop net floats to be marked (Go ID # or other appropriate identification.)

Key discussion points

- How does proposal assist enforcement?
 - Marked gear may help identify hoop nets soaking too long
 - Current law promotes responsible fishing and enables abandoned gear recovery
 - Is it too burdensome?
- Look to other state examples (e.g. Dungeness crab in California and Washington)
- Could help address poaching
- Consider voluntarily lighting hoop nets (linked to education)
- Requiring hoop net floats to be lighted may cause navigation issues
- Marking hoop net floats with a phone number is more an educational than regulatory issue
- Primarily beneficial for hoop netters recovering lost gear
- Could help accountability
- Floats and markings would need to be distinct from commercial gear (Enforcement expressed concern that it might be difficult to distinguish recreational from commercial floats)

Summation: Potentially limited traction on this proposal; more of an education focus.

Issue: Use of mechanical pullers has made it easier to rob commercial traps.

Introduced proposal: *Prohibit use of mechanical pullers.* Restrict use of mechanical pullers solely to persons in possession of proof of disability (e.g. DFW disabled persons form or proof of blue placard – DMV).

Key discussion points

- Devices not widely used
- Problem is likely fed by black market
- Maintain reasonable access for disabled persons; nature of applicable disability can be specified
- General recreational support for proposal
- Use of pullers enables theft of entire commercial trap lines
- Puller theft more efficient than divers; theft in deep water now too
- Enforcement has yet to catch thieves in the act using pullers; divers have been caught robbing traps
- Need data to show scale of theft problem
- Clarify “mechanical” versus “powered” pullers; davit and single pulley systems may be allowable
- Exempt anchor winches
- Align with the Americans with Disabilities Act

Summation: LAC consensus achieved (straw proposal); no final decision made.

Issue: Need and/or desire for a seasonal limit to help reduce commercialization within the recreational sector and share opportunities with other recreational fisherman (i.e. some individuals take too many lobsters from jetties while others catch none).

Introduced proposal: *Establish a seasonal limit.* Discuss and evaluate a seasonal limit between 70 – 98 lobsters.

Key discussion points

- What is ratio of catch relative to commercialization (i.e. hoop netters versus divers)?
 - Small difference but not substantial
 - DFW not interested in different seasonal limit for different parts of the recreational sector
- Round figure may help increase understanding and acceptance (e.g. 100)
- Proposal does not replace the daily bag limit
- Is seasonal limit or change in bag limit most appropriate?
- Concern that seasonal limit could go down after regulation is established (e.g. 100 – lower number)
- Might not effectively address commercialization of the recreational sector
- Consider resource value and other management types. In the abalone fishery:
 - Seasonal limit for honest participants; tags for dishonest participants
 - Time needed to fill card provides enforcement a greater window to observe
 - Fill in date, location and immediately attach tag to catch
 - Moving off beach or to another site before tagging is a violation

- Proposal should clarify target violator and type of rule that enables proper enforcement
- Proposal is sensitive to Commercial Passenger Fishing Vessel needs (e.g. bag limit of seven lobsters and a multi-day permit sells trips)
- Need additional input from Enforcement

Summation: Issue needs further exploration.

Issue: Confusion over location codes. The location system on report cards is complicated for users.

Introduced proposal: *Reduce the number of location codes.* Base new number on data currently being used for management.

Key discussion points

- Codes useful for data collection and analysis?
- Simplify and combine coastal codes (need continuity between data sets)
- Need to see fishing “hot spots” (e.g. top twelve sites; not too over-generalized)
- Is there a need for finer scale breakdown in Santa Monica Bay; so more than one code for this area?
- General comment: FMP should address future data needs

Summation: Issue needs further exploration.

Public Comments

Public comment occurred at two different periods during the meeting. Questions, comments and discussion focused on the following topics:

- *Recreational fishery (general)*
 - Fishery participants assessed a late fee for not reporting regardless of when subsequent report card is purchased
 - Seasonal limit is an important consideration for future management
- *Season opener*
 - Pick a date for season opener and closure; consider setting date each year
 - Consider mid-week date for commercial fishermen; closure should be separate for commercial and recreational
 - Sunset opener for recreational sector may help avoid illegal take
 - Exempt individuals who fish from piers from any new hoop net regulations
 - Learn from the new management scheme using tags being implemented in the Dungeness crab fishery
- *MSE and development of a harvest control rule*
 - MSE and discussion of harvest control rule is critical for LAC to simulate and test various management options
 - LAC and members of the public have limited understanding as to how science will inform decision-making
 - Concern that stakeholders do not have time or opportunity to integrate science into decision-making and suggested FMP recommendations to DFW

- Frustration that stakeholders have received limited guidance from DFW and may be asked to make decisions based on uninformed consent
- LAC members need time to reach out to constituents once potential management scenarios are modeled, evaluated and discussed
- Need to provide stakeholders data to inform management and harvest control rule discussions
- Need to highlight the connection between stock assessment and harvest control rule
- Biological triggers do not necessarily need to be separated from economic and social activity
- Recommended to coordinate data management with fishermen
- Provide a clear and understandable definition of harvest control rule
- Ensure consideration of marine protected areas (MPAs) in whatever model(s) is used