

## Summary Sheet

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**Meeting dates:** February 25 - 27, 2021 Webinar

**Agenda item:** Whale Entanglements in the Coastal Crab Fishery and Conservation Plan Progress – Briefing

**Presenter(s):** Heather Hall, Intergovernmental Ocean Policy Coordinator

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### **Background summary:**

In 2019, in response to recent increases in entanglement interactions in the coastal commercial Dungeness crab fishery of gray and humpback whales, and to ensure compliance with Section 10 of the Endangered Species Act (ESA), WDFW indicated our intent to apply for an Incidental Take Permit from the National Marine Fisheries Service (NMFS). Given that the ITP application process can take several years, WDFW staff also began working with stakeholders and members of the coastal crab industry to identify regulatory changes that would immediately reduce the risk of entanglements. Those regulatory changes were implemented in 2020.

A conservation plan (CP) for the coastal commercial Dungeness crab fishery is a required part of the ITP application process. A CP describes the risk the fishery poses to protected species sought for permit coverage and the measures that will be implemented to minimize that risk to the maximum extent practicable. The regulatory changes implemented in 2020, to reduce the risk of entanglements, form the foundation of the CP. However, several other components are required to complete the CP, including an adaptive management plan and an entanglement monitoring program, to account for uncertainties ahead of time and ensure WDFW can nimbly respond to changes in risk to maintain continued compliance with the terms of the permit. For our ITP application to be successful, these remaining components need to be robust and clearly show that our management objectives will meet the “maximum extent practicable” standard for reducing entanglement impacts to protected species.

An initial draft of the conservation plan was complete in late 2020. However, it was clear more work was needed, particularly on the development of an entanglement monitoring program. In addition, new information on the status of humpback whale populations recently became available, and more time is needed to understand how that new information relates specifically to whale populations off the Washington coast before finalizing our draft CP. WDFW staff continue to collaborate with NOAA, coordinate with the states of Oregon and California, and inform coastal Treaty Tribes of our efforts with the expectation that a final draft CP will be complete by late fall 2021.

The purpose of this briefing is to provide a complete overview of the components of the coastal commercial Dungeness crab CP and a proposed process and timeline for completion.

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### **Staff recommendation:**

None – briefing only

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### **Policy issue(s) and expected outcome:**

The policy vision for the coastal Dungeness crab CP is to maintain a Washington coastal commercial Dungeness crab fishery that thrives alongside recovering populations of ESA-listed whales and sea turtles. Our agency’s mission and fishery management policies guide WDFW staff to achieve the first part of this vision. Regulatory changes already implemented, along

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with other components of the CP will address the second part of the CP's overarching vision and result in a reduced risk of marine life entanglements in Washington coastal commercial Dungeness crab gear.

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**Fiscal impacts of agency implementation:**

The Fish Program has hired a biologist to add support for the incidental take permit process, which includes drafting the permit application and accompanying Habitat Conservation Plan and National Environmental Policy Act documents, as required. Current policy staff work has been re-prioritized to focus on this effort over the next two to three years for coordination with NMFS, the states of Oregon and California, affected crab industry members, and other stakeholders.

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**Public involvement process used and what you learned:**

A summary of key discussions and actions taken to date is provided in Attachment 1.

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**Action requested and/or proposed next steps:**

Informational only, no action is being requested of the Commission.

Additional regulatory changes to support the coastal Dungeness crab CP are currently scheduled for Commission consideration at the June and August 2021 Commission meetings.

Staff will work on completing the draft CP while continuing to coordinate with stakeholders, NMFS, tribal co-managers, and managers in Oregon and California. A final draft is anticipated in late fall 2021 and, once complete, will be provided to all Commissioners.

Future revisions to the Commission's policy on the coastal commercial Dungeness crab fishery (C-3604) will likely be needed to reflect goals and objectives implemented as part of the CP.

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**Draft motion language:** N/A

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*Form revised 2-15-18*

## Summary of Dungeness Crab Discussions and Actions

### 2017

November – Washington Whale Entanglement Working Group

- PSMFC hosted the first Washington Whale Entanglement Working Group

### 2018

August – Correspondence with Center for Biological Diversity (CBD)

- CBD expressed concerns with uptick in whale entanglements off the West Coast and interest in collaborating to identify common sense solutions to eliminate whale entanglements in Washington State fisheries.
- WDFW summarized work to-date to address increased entanglements, including the establishment of a Washington whale entanglement working group and formalizing shared commitment with California and Oregon to reducing whale entanglements on the West Coast.

December - Letter from WDFW to National Marine Fisheries Service

- Notice of intent to apply for a Section 10 Incidental Take Permit for the Washington coastal Dungeness crab fishery

### 2019

January 11-12 Fish and Wildlife Commission Meeting – Briefing

- Overview of entanglement issue
- Intent to apply for an Incidental Take Permit, potential need for additional staff resources
- Develop options for reducing entanglement risk
- Plan to host industry meetings in the spring of 2019

March 19 – First WDFW Workshop with crab industry (low attendance):

- Information on whale entanglements in WA crab fishery, ITP process, and timeline
- Briefing on electronic monitoring (EM) options
- Review potential regulatory measures (gear requirements, time/area closures, derelict gear removal, and EM)

March 26 – Center for Biological Diversity (CBD) and Pacific Coast Federation of Fishermen’s Associations (PCFFA) settlement agreement with CDFW:

- Closed California crab fishery on April 15, 2019
- Following season to open Nov 15, 2019—anticipate CDFW regulations prior to opening
- Closes fishery on April 1 each year (in specific areas) until ITP permit is issued
  - Allows “ropeless gear” in other areas until ITP permit is issued
- Requires CDFW submit ITP permit application by May 15, 2020
- Requires Risk Assessment and Management Program (RAMP) to determine closures
- “Working Group” to include CBD and PCFFA with scheduled calls with Director
- Commits NOAA to aerial surveys and whale presence criteria to determine closure

April 24 – Second WDFW workshop with crab industry (high attendance):

- Solicited feedback on potential regulations and proposed process and timeline
- Narrowed alternatives for gear requirements, derelict gear removal, and EM and discussed timing relative to fishery operations

#### May 23 – Coastal Crab Advisory Board Meeting

- Reviewed results of industry workshops and discussed proposed rule changes and the proposed process and timeline for implementation during the 2019-2020 season

#### July 1 – Emergency Rule Effective Date

- License holders with an assigned pot limit of 500 pots were reduced to 330 pots
- License holders with an assigned pot limit of 300 pots were reduced to 200 pots
- This rule was in effect through the end of the season (Sept 15, 2019)

#### July 30 – August 1 – NOAA ESA Incidental Take Permit Workshop

- Hosted by NMFS to give West Coast managers an overview of the ITP and Conservation Plan requirements and process
- Initiated Tri-State and NMFS coordination on WDFW, ODFW and CDFW coordination on conservation plan development

#### October 18 – Fish and Wildlife Commission Meeting – Briefing

- Proposed rule changes to implement reduced pot limit, summer gear recovery program, and line marking requirement

#### November 6 – Industry Meeting and Public Hearing on Proposed Rule Changes

- Discuss whale entanglements and measures to reduce risk
- Dan Lawson (National Marine Fisheries Service) described the ITP process

## 2020

#### January 17 – Fish and Wildlife Commission Meeting - Decision

- Summary of public comments from the November 6, 2019 industry meeting
- Commission approved regulatory changes designed to reduce the risk of whale entanglements in the coastal Dungeness crab fishery

#### August 25 – September 3 – West Coast Entanglement Science Workshop

- Inform the development of adaptive management strategies to reduce whale and sea turtle entanglement risk within US West Coast fixed-gear fisheries
- Presentations by researchers and targeted discussions with fishery managers, fishing industry and NGO stakeholders from Washington, Oregon and California actively working to reduce the risk of entanglement in West Coast Fisheries
- Washington delegation in attendance: Heather Hall, Dan Ayres, and Victoria Knorr (WDFW), Larry Thevik (Washington Crab Fishermen's Association) and Dale Beasley (Columbia River Crab Fishermen's Association)

#### Fall 2020 – Conservation Plan Updates with Co-Managers

- Quileute Tribe – October 15
- Quinault Indian Nation – October 22
- Makah Tribe – October 29

#### December 10 – Coastal Dungeness Crab Industry Meeting

- Conservation Plan progress and timeline
- Overview and public comment on goals, objectives, and adaptive management approach
- Additional rule changes for 2021

## 2021

February 26 – Fish and Wildlife Commission Meeting – Update

- Conservation Plan overview and timeline / process for completion

Summer 2021

- 2021 Rule Package: eliminate replacement buoy tags, mandatory electronic fish tickets, and permit the trial use of experimental crab fishing gear in coastal WA waters

Fall/Winter 2021

- Finalize CP for Director's signature
- Complete ITP application package