



ODCAC Conference Call

May 26, 2021 3-5PM

Attendance: Caren Braby (ODFW), Kelly Corbett (ODFW), Troy Buell (ODFW), Brittany Harrington (ODFW), Eric Anderson (ODFW), Todd Thompson (OSP), John Corbin, Gary Motsinger, Clint Funderburg, Mike Retherford, Justin Yager, Bob Eder, Scott Hartzell, Hugh Link, Tim Novotny, Crystal Adams, Bernie Lindley, Bill Manning, Susan Chambers

Summary

- The meeting opened with attendance and an overview of the agenda, including (1) progress and timeline updates for Conservation Plan (CP), (2) vessel monitoring needs for crab fishery, and (3) current season updates on implementation of new regulations.

1. Conservation Plan

- Caren Braby provided an overview of the CP goals, progress and updated timelines which the Department has had in development since early 2019.
 - The goal for the CP is to lay out our management strategy for interactions with ESA-protected species, so there is a clear management and a monitoring approach that will allow us to determine how effective we are at reducing whale entanglement risk. NMFS will then consider the CP as part of our application for an incidental take permit (ITP).
 - The Department has continued to develop the CP (specific to the ocean commercial sector) with the intent of ultimately being issued an ITP, for interactions with humpback whales, blue whales, and leatherback sea turtles.
 - It's been a complex process to put the CP together that has primarily included the core crab management team, Brittany Harrington, and most recently, Eric Anderson, who have all been helping to shape and draft that plan. We have also been working with NMFS iteratively, meeting at least every other month, as well as with managers from Washington and California. These have all been very productive discussions.
- Caren Braby reviewed additions to the CP since we've talked with the broader crab fleet at the Oct 2020 public meetings. We've really focused on a couple of areas:
 - The adaptive management approach, or the "if, then" approach. Our core approach is codified in regulations (2019 and 2020 Commission rulemaking packages), but the CP needs to describe what will be done if something else, something worse, or something more happens. So we've started flushing that out.
 - Three different advisory groups are key to adaptive management:
 - ODCAC is the primary one, both in its current format and as a group that the Department can turn to if/when an in-season adaptive management approach is needed. It's different than CA's RAMP strategy, but similar in that we can pull this group together if we encounter a problem and talk through the situation and available adaptive management tools (e.g.,

moving the percent of pot limit reduction or the date) to decide which one is the most appropriate given the (currently unknown) future event.

- The second group is the Oregon Whale Entanglement Working Group (OWEWG), originally convened by Oregon Sea Grant. Sea Grant has indicated they want to support the convening of that group as much as is required, but it's not in their plan to support that group long-term. ODFW met with the OWEWG in early 2021 to think through a CP monitoring approach. At that time, we also asked OWEWG members about their thoughts on ODFW taking leadership of convening that group in the future and there was general support for that approach. This is a bit on hold in the short-term, but we do plan to continue working towards that. OWEWG will be important for thinking through communication issues with a broader set of stakeholders to keep everybody on the same page thinking about the problem and right-sized solutions.
 - The third group is CP specific advisory groups which are likely to include participation by a subset of ODCAC and/or OWEWG, along with subject matter experts (e.g., marine mammal, fishery, disentanglement, gear), to ensure that recommendations are made based on the best available information at that time.
- Monitoring is a key part of the CP and another section we've spent considerable time since Oct 2020 flushing out. During NMFS consideration of issuing an ITP, they want to know that it's being implemented properly and that it's effective. There are a couple of key parts that we are thinking about in Oregon. These include:
- Continuing the co-occurrence monitoring and modeling work that we've started with OSU, led by Dr. Leigh Torres. This project has a number of collaborators including ODCC, USCG, ODFW, etc.
 - In addition to that work, we've been thinking of other ways that we can collect firsthand observations in the field of happy whales and entangled whales. We are thinking through development of protocols to put on research projects that are going out to sea for other purposes, and how we can work with those researchers to add whale observation protocols for when they're out on the water for research purposes.
 - The other area is thinking about a systematic volunteer-based observation program, for charter, private, and commercial vessels that can report about happy, entangled, and no whales. In addition to whale information, it's also important to collect data on observation time. That is a valuable thing to document and helps us describe to NMFS and to the public, not only that there are rare entanglements, but there is a lot of time out on the water when there aren't any entanglements.
 - A lot of other monitoring ideas either rely on technology that isn't ready, or require significant research and development or funding, or are otherwise not interpretable or useable. Things like gear tracking, scar

studies, acoustic monitoring or tagging whales are all ideas that aren't ready for some reason.

- We also have plans to more formally, and in more real-time, keep track of the fishery and keep track of the economics of the fishery so that we can indicate what the performance of the fleet is and what the performance of the regulations are.
- Caren Braby provided updates on the Oregon Fish and Wildlife Commission timeline for the CP. We originally planned to bring the CP to the Commission in April, but COVID and other developments resulted in a delay. We were then planning for August. That has been delayed, *but* confirmed now for September 17. At this meeting there will be an opportunity for both written and/or oral testimony. The plan is to have the CP drafted and available for public review, at least a month ahead of time. There will be time to look through that, develop comments, and submit them. Once that meeting is done, we'll look at comments and address what we're able to, and we'll document and archive the ones that we can't address in the short-term. We still intend to submit the CP to NMFS by the end of this calendar year, but as you know, a September public comment period leads quickly to October, November, and to the opening of the crab fishery. So, we'll see how the submission time works relative to the number and substance of comments that we get in September.

2. Vessel monitoring

- Caren Braby discussed the Department's strong intent to implement vessel monitoring as a requirement in the crab fishery in the relatively near future. Vessel monitoring has been a key need for some time, particularly since we started to put biotoxin management regulations in place. This has been something we have said we were going to do for several years now. The whale entanglement issue emerging soon after biotoxin issues, just adds to the need to make this a requirement. The rationale for vessel monitoring is well understood by many in the fleet. As we talk about this fishery and about management of this fishery, having full accountability strengthens our credibility and strengthens trust in the Oregon fleet and in Oregon management.
 - We have talked numerous times about the pros and cons of seeking an ITP, from ODFW's perspective. The fleet has made it very clear that it's a benefit to the fleet as well. In order to continue that dialogue and follow through with the application process, we need to continue to build vessel monitoring as part of the foundation that we're building for our management.
 - As an initial step we need industry members to test vessel monitoring systems. If we don't get testing, then we'll move forward with requirements, but we'd much rather have good recommendations for what to require from on the water testing by members of the fleet.
- *ODCAC Members*: Several advisors indicated they already have solar trackers on their boats, some for at least five years, since it was first suggested by the Pacific States Marine Fisheries Commission (PSMFC). All said they were no trouble, and very easy to install on their boats because it has no wires. A few of them said it would be valuable to

have some feedback coming back to the captains on how these new systems are performing.

- One advisor did note that for other fisheries in the past they have had quite a few problems with other technology (e.g., VMS), so would be really interested in the solar loggers or other technology that is different than existing systems required in other fisheries.
- Caren Braby asked advisors for ideas on how to get more systems tested so we can get feedback from a broader subset of the fleet. We're also hearing from Washington where they have a pilot program going, that there are some systems that have features beyond just tracking location. For example, they can notify captains about alarms going off, when someone gets on board, etc. It would be of interest to the Department to know the degree of interest in a logger that has more services associated with it. We'll be doing some work to compare and contrast systems and what that would look like. We would also love to have a system that feeds into a e-logbook system. That's a direction we'd like to go, at least on a voluntary basis, if not a requirement.

3. Current season

- Kelly Corbett reviewed whale entanglements updates, aerial survey updates, fishery effort updates and new May 1 regulation updates with the group.
- Whale entanglements update
 - The Department has been notified by NMFS of four total entanglements so far this year, all reported off California. One was a confirmed humpback with unidentified gear. Two were gray whales in April that involved line and buoys, but were not confirmed to a specific fishery. The last of the four was a minke whale, that was confirmed entangled in Oregon crab gear. It was successfully disentangled by a team from Sea World and the gear, a single set of crab line with three trailing buoys, was recovered. NMFS made contact with the gear owner and the fisherman indicated it was gear from this season, fished south of Newport, and mostly inside 40 fathoms with only one string briefly outside 50 fathoms. We have not been notified of any reports of other entanglements off Oregon or Washington to date.
- Oregon aerial survey updates
 - The surveys have been up in the air this month, with all four transects flown. These were flown during the second and third week of May, and there were not observations of any major feeding aggregations.
 - We did have ODFW staff sampling off Port Orford in April that observed humpbacks right off the dock in Port Orford.
 - *ODCAC Member:* Indicated he was out on the ocean today, and there are lots of humpbacks off the coast, north of Coos Bay, between 70-100 fathoms.
 - The Department will pass along this information to aerial survey research partners.
- Fishery effort tracking updates
 - Effort in April was on the relatively high end with 233 permits making landings into Oregon. This is likely due to a combination of our late start on the whole

coast, but particularly on the north coast, plus the very high current price per pound. The price per pound right now, for all landings to date, is sitting a \$9.45/lb. As of the end of last week, 148 boats have purchased late-season tags. Of those, 118 boats have made landings to date. Any dual-permitted vessels that are fishing off Washington, that aren't landing into Oregon, wouldn't be included in that total, but would have been required to purchase tags.

- We've heard some concerns from commercial crabbers about increasing effort trends in charter, private, and guided crabbing trips. We are currently trying to get and handle on some data to be able to make some of those comparisons. Those will be included, at some scale, in the CP, with more estimates likely included in the crab Fishery Management Plan (FMP) that we're also drafting. We want to continue discussions about those concerns, most likely at a future OWEWG meeting or one of the additional CP advisory meetings, in order to have broader representation to evaluate any estimates that we're able to put together and potential concerns.
- New regulation implementation updates
 - *Todd Thompson (OSP)*: As far as implementation of the new May 1 regulations the general theme has been procrastination and lack of concern from the enforcement perspective to-date. In late April, we started getting some calls from fishermen who hadn't been prepared in advance and we worked with those folks. Patrols to-date since May 1 have resulted in multiple citations for strings with no late season tags, or landings after May 1 with no tags. My impression is that the fleet, and the folks OSP has been dealing with, don't consider this a matter of concern like ODFW and some people on this call do. The transition from April into the late-season measures, flat didn't work very well this year due to lack of pre-planning, weather, etc. Not sure what the solution is, possibly something more formal like a break, or more I&E to the fleet to drive home the importance. Through patrols and enforcement action, OSP is slowly getting things back in line, in terms of compliance with new regulations but it hasn't gone smoothly.
 - Kelly Corbett also talked about fleet concerns about the timing of the late-season tags. We're thinking about the concept of moving up the timing of when you can actually order the tags. We sent out an industry notice and order form in mid-March, but we've heard that's too late. We've also heard concerns about when the late-season tags can actually be in the water, and heard requests to allow them in the water early than April 18. Part of the rationale of not allowing late-season tags prior to that, is to have additional data about when any gear involved in a future entanglement was in the water. If it's too far in advance, we broaden the time frame of when late-season tags should be present.
 - *ODCAC Members*: A few members indicated weather was super cooperative and remains cooperative at least on the central and north central coast so don't think weather could be a legitimate reason for late-season tags not being attached. One member indicated currents have been tough on the south coast.

- Kelly Corbett also discussed concerns that the Department has heard about derelict gear and not being able to retain crab from derelict gear due to lack of late-season tags or because outside of 40 fathoms. It's a pretty big loophole to allow retainment of crab from those pots, but we are trying to think of different approaches and want to hear feedback on that as well.
 - *Todd Thompson*: From OSP's perspective, on retaining crab from pots without late-season buoy tags it's a tricky line to walk in terms of incentive to bring it in, versus undermining the new regulations.
 - *ODCAC Members*: A couple of advisors expressed concern that in the balance of things, it would probably serve our fishery best if its clear that it's okay to take any crab out of gear that doesn't have late-season tags. They feel that without this, industry is in a situation where there is absolutely no incentive and if we all want to get it cleaned up, this is the way to do it. They also expressed there is no point having these regulations, unless they're enforced.
- Caren Braby said that we have a lot of work to do on the derelict gear and the crab retention issue. I think Todd's comment about education and outreach applies to us and to OSP, and I would urges advisors to all be your own communication experts on it as well. If people don't believe that the regulations are helpful for getting an ITP and keeping this fishery afloat, then they're going to disregard the regulations. We need more people to believe in the value of what we're collectively doing. She encouraged advisors to talk about the new measures and why they are in place within their ports and networks. She also indicated that we need to think about much more strict enforcement, which is a strong arm approach that none of us prefer. We normally try to implement new regulations with a softer, education and outreach approach, but that won't work if we have an egregious lack of compliance. In the absence of the softer touch working, that's what we're going to have to move towards. She indicated she understands the benefit of allowing crab retention, but also understands the concerns about needing the ability to enforce the new regulations, especially when we have such poor compliance. She also mentioned that there have been ODCC conversations about this as well, and about the potential of a bounty or charter program to bring in derelict gear.
 - *Hugh Link* (ODCC) would prefer a close collaboration to make sure everything proposed in the future is compliant with ODFW regulations.
- *ODCAC Member*: In my opinion, the whole purpose of all this change in the season structure and the summer tag program is so that we can help show NOAA and the public that we are making a concerted effort to clean up the ocean and do what's right for the whales. In doing so, I think we need to look at how we can best encourage all of the fleet to make an effort. Maybe we could consider after May 5th, a grace period starts through May 31st where anyone can pick up gear with a summer tag or not, and see if we can't get the ocean cleaned up for the betterment of the whale problem. The crabs that you get were caught in the legal time period, the owners just don't know where those pots are to pick them up

and get them out of the ocean. Maybe the grace period is in effect in May, and then in June we think of a charter clean up program, or something.

- *ODCAC Member*: For the guys who aren't compliant, it's about the effective date for many of them. Because they're small boats, the 20% of the gear actually started coming in during the second week of April. A lot of gear was out of the water well before May 1. Wanted to mention this because it's the other side of the same coin you're describing. Kelly's thought about making it an earlier date, so that tags can go on maybe April 1, could be helpful too.
- *ODCAC Member*: We need to remember that every vessel is different too. In the Coos Bay area, the current was a problem for many boats and every year is a little different. The cottons are going right now on most of these pots, some of them are still holding but won't be for long. Because of the delay in the season, most of the gear that's been left out there will have the cottons out and the crab crawling out. Once you get into June, incentive to go get derelict gear is waning because pots will be empty.
- *ODCAC member*: Personally, I would support a bounty on gear left out.
- Caren Braby ended the meeting by expressing the Department's appreciation for all of the discussion today. The next big time to get together will be in September, or something leading up to the September Commission meeting. ODCAC members were encouraged to send any further thoughts to ODFW before then.