

## Agenda Item Summary

### BACKGROUND

This briefing summarizes the 2007-08 commercial crab season and staff activities pertaining to the fishery. As requested by the Commission, staff is providing information regarding a public request for vessel safety inspection requirements.

#### 2007 – 08 Season Summary

Crab condition during pre-season testing met the standards to open the season coastwide on December 1, 2007. A price agreement was also reached in Oregon and the fishery began on December 1.

Unfortunately, the fishery opening was quickly followed by a huge storm that affected crabbers and processors all along the coast. Although crabbers responded well to the storm warnings, many reported large amounts of lost gear, especially along the north coast. To make it easier to recover lost gear, the Oregon Department of Fish and Wildlife (the department) adopted temporary rules to allow crabbers to bring in some gear belonging to others and to get replacement buoy tags (up to 10 percent) about two weeks earlier than normal. During the 2007-08 season, 4,202 buoy tags were replaced, compared to 2,636 during 2006-07.

Commercial ocean Dungeness crab landings into Oregon ports continued their decline following the peak in 2004-05 (Figure 1). Landings during 2007-08 reached 12.3 million pounds, still about 20 percent above the long-term average of 10.3 million pounds.

Pot declarations totaled about 115,000 for the 312 Oregon permitted vessels that made landings in Oregon during 2007-08. The number of pots is slightly lower than the 120,000 pots declared the previous season and substantially lower than the 200,000 estimated pots declared before pot limits were implemented.

Newport led all ports with over 5 million pounds, followed by the Astoria area at nearly 3 million pounds. The Charleston area came in third with nearly 2 million pounds. Ex-vessel value of landings in Oregon during the 2007-08 season totaled about \$29 million (Table 1).

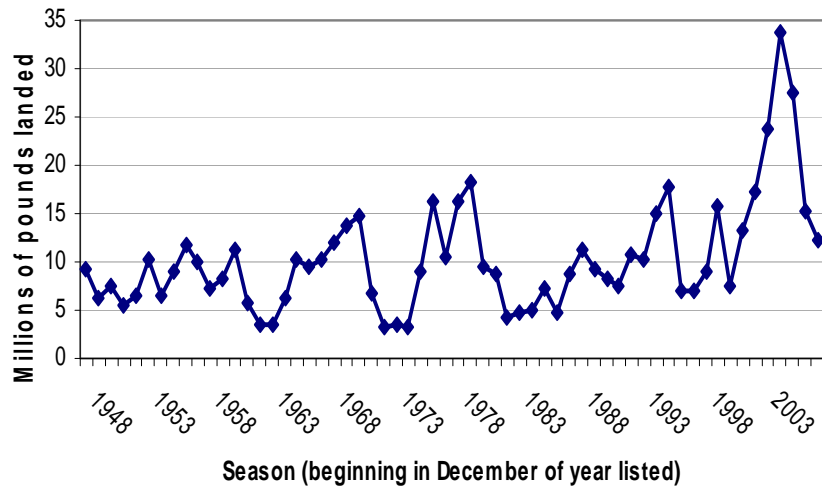


Figure 1. Landings (millions of lbs) per Dungeness crab season.

Table 1. Monthly landings (pounds) and average price for the 2007-08 season

MONTH	LANDINGS	AVG. PRICE/ LB
December	7,471,895	2.06
January	2,768,190	2.61
February	997,253	3.00
March	407,344	3.08
April	311,322	3.76
May	179,768	3.95
June	90,975	3.35
July	67,901	3.12
August	43,627	3.29
<b>ALL SEASON</b>	<b>12,338,275</b>	<b>\$ 2.38</b>

2008 Tri-State Crab Committee Meeting

The Tri-state Dungeness Crab Management Committee met in Portland on August 14, 2008. Each state gave a summary of their 2007-08 fishery.

The primary change for 2009 under the Tri-state agreement is Washington’s addition of a new softshell testing location off central Washington. The Committee and industry advisors also discussed potential changes to the season start date, summer fishery management and cross-boundary issues. Washington state staff provided an update on Washington’s crab permit buyback program, and California state staff presented a California legislative update. Washington and Oregon enforcement staff described cooperative efforts on crab enforcement during the past season. No decisions on these issues were made and the states will continue to work on these issues.

The Oregon Dungeness Crab Commission (ODCC) offered to survey the Oregon fleet about permanently changing the start date from December 1. More information is given below on two additional agenda topics: marine mammal interactions and an expanded role for Oregon Department of Agriculture (ODA) in the season-setting process. Industry also raised concerns about the amount of derelict crab fishing gear and the need to retrieve it. More information is also given below about recent derelict gear recovery efforts in Oregon.

#### Washington Crab Permit Buyback Program

The Washington Department of Fish and Wildlife (WDFW) is continuing to work on a legislatively mandated report on a Washington crab license buyback program. They are targeting the purchase of up to 80 – 100 licenses. The purchase of vessels and/or other associated permits would be dependent on funding. Funding sources (federal or state) have not yet been identified. The state report will spell out options for qualification criteria for those who would be eligible to participate in a program. WDFW staff expressed a strong desire to include provisions that would minimize negative impacts on the Oregon and California fisheries.

#### California Crab Fishery Legislation

Currently, management of the California commercial Dungeness crab fishery is specified primarily in statutes, which has complicated or limited implementation of some fishery management actions for Oregon and Washington. California enacted legislation effective January 1, 2009 which may lead to greater flexibility in a few years. The legislation creates a Dungeness crab task force to review and evaluate California Dungeness crab management measures. The task force is required to make recommendations to the California Department of Fish and Game, Fish and Game Commission, and legislative committees by January 15, 2010.

The Dungeness crab task force is required to make recommendations on the need for a permanent Dungeness crab advisory committee, refining sport and commercial Dungeness crab management, establishing a Dungeness crab marketing commission, and the need for statutory changes. The task force must prioritize the review of pot limit restriction options, harvest allocation, current and future sport and commercial fishery effort, season modifications, essential fishery information needs, and short- and long-term objectives for improved management.

#### Marine Mammal Interactions

Changes affecting Oregon ocean Dungeness crabbers are expected to take effect on January 1, 2009, as a result of known entanglements of endangered humpback whales and other marine mammals with commercial crab pots off the west coast, including Oregon. The National Marine Fisheries Service (NMFS) has proposed to list the Oregon Dungeness crab pot fishery as a category II fishery on its 2009 List of Fisheries with marine mammal impacts. A final decision is expected in November, 2008.

For a category II fishery, permit holders are required to get a Marine Mammal Take Permit and to take observers if requested. Other requirements may be imposed. At this time, requests to take observers and other requirements for the Oregon fleet are not anticipated, but may be considered in future years. Department staff are working with NMFS to minimize potential disruptions to the fishery. In addition, a consultation under the Endangered Species Act will likely be required.

#### Agreement with Oregon Dept. of Agriculture

For the past few seasons, the department and ODA have been discussing how decisions about the season start can be improved when the crab condition (softshell) test results don't allow the season to open coast-wide on December 1. Through their experiences in the price negotiation process with the crab industry, ODA staff learns critical information about market conditions and industry views, which can benefit the decisions made through the Tri-state process. Therefore, the department is developing a joint agreement with ODA and OSP to expand ODA's role in the decision-making process when the season is delayed. Under the agreement, ODA would make recommendations to the department regarding the season start and the department would consider these recommendations when it adopts rules to start the season. Discussions are still underway at the time this briefing was prepared, but it is anticipated that the agreement will be in place for the upcoming 2008-09 season-setting decisions.

#### Court of Appeals Review of Pot Limit Rules

On the legal front, on September 24, 2008 the Oregon Court of Appeals upheld the Commission's crab pot limit rules in *Fishermen Against Irrespon. Realloc. v Fish and Wild.* (222 Or App 353 (2008)). The Court rejected the arguments made by petitioners that the Commission lacked the legal authority to adopt the pot limit system in the crab fishery because pot limits were not specifically authorized in statute. Citing both the state food fish policy (ORS 506.109; 506.119) which calls upon the Commission to promulgate rules for the "equitable utilization of food fish" as well as the specific statute directing the Commission to establish a system to restrict participation in the commercial crab fishery (ORS 508.921), the Court concluded that "the Commission acted well within that authority when it established the crab pot allocation system set forth in" the administrative rules (222 Or App at 358), concluding that each statute independently authorized the Commission's actions. (222 Or App at 360). Petitioners did not prevail on any point in the lawsuit.

#### Derelict Gear

The amount of lost and derelict crab gear continues to be a concern and staff continues to work with many in and outside the industry to find ways to prevent gear loss and recover gear that is lost, abandoned or derelict. For example, the department staff represents Oregon on the Marine Debris Action Coordination Team, recently formed under the West Coast Governor's Agreement on Ocean Health, to develop an action plan to address derelict fishing gear and other marine debris.

During the 2007-08 season, the department adopted several temporary rules to make it easier for crabbers to retrieve lost and derelict gear. During mid-December through mid-June, crabbers were allowed to retrieve and bring in up to 6 pots that didn't belong to their vessel. In mid-June when the summer fishery weekly landing limits began, crabbers were allowed to retrieve up to 50 pots that didn't belong to them. In addition, a federally-sponsored derelict recovery project was allowed to retrieve crab gear off the north coast during April.

After the season, the department adopted a temporary rule to allow any commercial fishing vessel to bring in as much crab gear as they wanted and drop it off in port for the owner to pick up.

The department partnered with ODCC, Oregon Fishermen's Cable Committee and Oregon Sea Grant on a derelict crab gear recovery project during 2006 and 2007. Crab vessels were chartered to pull and pump buoyed crab pots at several locations along the Oregon coast and the results are summarized below. More detailed information about the results is available in the September 2, 2008 newsletter mailed to the fleet.

The ODCC set up a hotline to allow fishermen and ocean users to report locations of stray or derelict gear. This hotline information was used to help guide vessels chartered for the project.- Chartered crab vessels completed eleven trips during the fall of 2006 and 2007. These trips spread gear recovery efforts all along the coast and some tested both pulling and pumping pots.

A total of 268 pots were recovered, averaging \$75 in vessel charter costs per recovered pot. Most pots were in good condition when retrieved and ownership could be determined for nearly all of them. Owners were contacted to pick up their gear, without charge.

Information about the recovered pots and catches of Dungeness crab and other species were recorded for most of the commercial pots recovered. Nearly 2/3 of these pots contained crab and half held legal-sized males. A dozen pots did not have a destruct mechanism, were zip-tied shut, or the destruct mechanism was still intact and so were still "fishing", months after the season ended. Dungeness crab catches, especially of legal males, were much higher in these pots.

In 2007, the department adopted a temporary rule to allow any commercial fishing vessel to bring in lost or derelict crab gear during September and October. The department monitored the pots left at the dock in Newport to assess the effectiveness of this rule. Over 40 pots were dropped off during this period, adding to those that had been dropped off during the season. At times the number on the dock exceeded 150 pots. These pots were from at least 96 different vessels and several vessels had 5 to 10 pots in the pile.

### Recycling Buoy Tags

The department issues new crab buoy tags to the fleet each year and purchases about 166,000 buoy tags for this purpose. To withstand winter fishing conditions, buoy tags are made of polyurethane, which cannot be recycled through local recycling programs. However, a company near Salem is able to recycle the tags and will do so for free. This company primarily uses plastics from the agricultural industry and produces plastic railroad ties and other items.

As a pilot effort, the department set out recycling containers (Figure 2) in major ports for fishers to drop off their old buoy tags. The department will collect the tags and take them to the recycler.



Figure 2. Buoy tag recycling container

### Commercial Logbooks

At their October 2007 meeting, the Commission adopted rules to require logbooks for the Dungeness crab fishery. The 2007-08 Dungeness season was the first season that required crabbers to log the location of their effort and their estimates of the associated catch. Along with basic information about the vessel and crab permit, the logbooks capture data regarding harvest location, number of pots, depth, days fished, estimated harvest, number of lost pots, and derelict gear retrieved.

The logbooks were distributed prior to the beginning of the 2007-08 season at coastal department offices and during hold inspections. Initial compliance for logbook submission was below 70 percent. In an effort to increase compliance, a reminder letter was sent to all crabbers that had landings in December and had not turned in their logbooks by the end of January (90 crabbers). As the season progressed, logbook submissions have improved.

A temporary employee was hired for two months at the beginning of the year to process the logbooks received at the beginning of the season. A second temporary employee was recently hired to complete the rest of the season's data.

Staff discussed the logbook design with the Oregon Dungeness Crab Advisory Committee (ODCAC). Only minor modifications were suggested and have been incorporated into the new version that will be available to harvesters prior to the coming season.

#### Request for Vessel Safety Inspections

Last spring, Ms. Michele Longo Eder expressed concerns about the safety of the Oregon Dungeness crab fishery and contacted the Commission with suggestions for improvement. In her April 25, 2008, letter (Attachment 2) she suggested that the department require crab vessels to have a valid US Coast Guard safety inspection for crab permit renewal, require proof of vessel insurance, and move to an individual fishing quota system for fishery management. Ms. Longo Eder requested that these items be placed on the agenda for the June, 2008 OFWC meeting for discussion and rulemaking prior to the start of the 2008-09 crab season.

In a second letter dated May 29, 2008 (Attachment 3), Ms. Longo Eder provided information from Oregon Sea Grant about participation in fishing safety training classes in Oregon and requested information regarding vessels crabbing in Oregon and those that had obtained the Coast Guard's voluntary safety inspections. She authored an article published in the Oregonian on May 16, 2008 and included a copy in her letter. That article reiterated her concerns for safety in the Dungeness crab fishery and cited National Institute for Occupational Safety and Health (NIOSH) statistics relating to at-sea vessels capsizing and fatalities.

In public testimony at the June 6, 2008 Commission meeting, Ms. Longo Eder requested the Commission consider her suggestions to improve vessel safety and take action by its October meeting. The Commission considered her request and the Director tasked the department staff to work with Ms. Longo Eder and the Coast Guard to take a look at the safety issues and report back to the Commission during a scheduled crab fishery briefing at its November meeting.

On July 11, 2008, department staff and Assistant Attorney General Steve Sanders met with Ms. Longo Eder, US Coast Guard personnel, and Dr. Jennifer Lincoln (NIOSH) to discuss vessel safety issues, including those related to potential implementation of permit renewal requirements and associated agency authorities. In addition, Dr. Lincoln presented results of her research on vessel safety in Alaskan crab fisheries. The Coast Guard described what takes place during their voluntary safety inspections and reported that 38.5 percent of Oregon crab-permitted vessels had valid inspections at that time.

On July 16, 2008, department staff met via conference call with the Oregon Dungeness Crab Advisory Committee (ODCAC), an ad hoc group of crab industry representatives that provide input and advice to department staff on crab policy issues. Staff briefed the committee on several issues, including crab vessel safety and Ms. Longo-Eder's requests. All the advisors who offered comment agreed with the need to

improve safety, and many felt that the fleet needed to be involved in such a process. Some supported mandatory vessel safety requirements and others raised concerns about how they would be implemented and whether this was the most effective way to improve vessel safety.

The ODCC also considered Ms. Longo-Eder's request to require a Coast Guard vessel safety inspection for renewal of an Oregon Dungeness crab permit. In its October 9, 2008, letter to Mr. Steve Williams (Attachment 4), the ODCC recognizes and supports the need for improvements in safety. However, the crab commissioners did not support the mandatory, regulatory requirements Ms. Longo-Eder requested to improve safety in their fleet. Instead, they have opted to institute a voluntary program to encourage safety within the fleet. To date, they have conducted 2 three-day Marine Safety & Survival Training classes which they are offering free of charge to crabbers and plan to offer more in the upcoming months.

## PUBLIC INVOLVEMENT

Nov. 6, 2007: Industry letter summarizing decisions of OFWC in October, 2007.

Dec. 11, 2007: Industry Notice on derelict gear. The department adopts temporary rule to allow vessels to bring in up to 6 derelict crab pots each fishing trip.

Dec. 14, 2007: The department press release on storm response. Date to allow for lost pot replacement tags is moved from December 31 to December 14, 2007.

Feb. 15, 2008: Logbook requirement reminder letter sent to permit holders that had made landings but had not turned in logbooks.

June 10, 2008. Industry Notice: The department adopts temporary rule to allow vessels to bring in up to 50 derelict crab pots each fishing trip.

July 16, 2008: ODCAC meeting via conference call. Discussion items included logbooks, MOU with Department of Agriculture, NMFS' list of fisheries and marine mammal interactions, vessel safety requirements, and updates of efforts to remove derelict gear and Washington's buyback program.

August 14, 2008: Tri-State Dungeness Crab Management Committee meeting (summary above).

August 19, 2008: Industry notice. The department adopts temporary rule to allow any commercial fishing vessel to bring in as much crab gear from the ocean as they want and bring it to shore for the owner to pick up.

September 2, 2008: Newsletter to commercial crab industry summarizing the 2007-08 season, rule changes, derelict gear activities, Tri-State Crab Committee meeting, NMFS proposed changes to the MMPA List of Fisheries, MOU with ODA, and the buoy tag recycling project.



October 7, 2008: Notice to industry outlining the buoy tag recycling project.

DRAFT MOTION	N/A
	N/A
EFFECTIVE DATE	