

# Notice of Exemption

# Appendix E

**To:** Office of Planning and Research  
P.O. Box 3044, Room 113  
Sacramento, CA 95812-3044  
County Clerk  
County of: N/A

**From:** (Public Agency): California Fish and Game Commission  
P.O. Box 944209  
Sacramento, CA 94244-2090

Project Title: Exploratory Fishing of King Crab and Other Deepwater Crab in California

Project Applicant: Johnathan Hillstrand (applicant) and Andrew Hillstrand (entity administrator)

Project Location - Specific: State waters off California

Project Location - City: N/A

Project Location - County: Multiple

Description of Nature, Purpose and Beneficiaries of Project:

Experimental fishing permit (EFP) for exploratory fishing of king and other deepwater crab species in California for commercial purposes. See attachment.

Name of Public Agency Approving Project: California Fish and Game Commission

Name of Person or Agency Carrying Out Project: California Department of Fish and Wildlife

Exempt Status: **(check one):**

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: Class 6, California Code of Regulations, Title 14, Section 15306
- Statutory Exemptions. State code number:

Reasons why project is exempt:

See attachment

Lead Agency

Contact Person: Melissa Miller-Henson

Area Code/Telephone/Extension: (916) 653-4899

**If filed by applicant:**

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project?  Yes  No

Signature: **Miller-Henson,  
Melissa@FGC**

Digitally signed by Miller-Henson, Melissa@FGC  
DN: DC=Gov, DC=Ca, DC=DFG, DC=AD, OU=DFG Divisions,  
OU=EXEC, OU=Users, CN=Miller-Henson, Melissa@FGC  
Reason: I am approving this document  
Location: your signing location here  
Date: 2022.10.14 12:49:21-0700'  
Foxit PDF Editor Version: 11.2.0

Date: 10/14/2022

Title: Executive Director

Signed by Lead Agency  Signed by Applicant.

Date Received for filing at OPR:

October 14, 2022

## **ATTACHMENT TO NOTICE OF EXEMPTION**

RE: Approval of Experimental Fishing Permit for Exploratory Fishing of King Crab and Other Deepwater Crab in California

The California Fish and Game Commission (Commission) has taken final action under the California Fish and Game Code and the Administrative Procedure Act with respect to the experimental fishing permit (EFP) application for the project mentioned above on October 13, 2022. In taking its final action for the purposes of the California Environmental Quality Act (CEQA, Public Resources Code, Section 21000 et seq.), the Commission authorized the California Department of Fish and Wildlife to issue a Tier 3 (exploratory fishing) EFP for the above-mentioned project in accordance with Section 91, Title 14, California Code of Regulations (CCR), relying on the categorical exemption for "Information Collection" contained in CEQA Guidelines Section 15306 (CCR, Title 14, Section 15306).

### **Categorical Exemption for Information Collection**

Section 15306 of the CEQA Guidelines (Class 6) provides a categorical exemption for information collection projects that consists of basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. The section goes on to note that these information collection projects may be strictly for information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted, or funded.

The project is a short-term exploratory fishing study under the EFP Program to test the feasibility of capturing king and other deepwater crab species using crab pots (traps) while avoiding impacts to non-target species and habitats. Sampling with the traps, which measure 84" x 84" x 32" in size, would occur between the California/Oregon border located at 42° North latitude and Pigeon Point at 37° 11' North latitude. Fishing activities would take place seaward of the 125-fathom depth contour along the mainland coast and offshore seamounts. No more than 40 traps would be deployed in the water at any given time. Each trap will be attached to one vertical  $\frac{3}{4}$ " line comprised of line with the top 198 feet (33 fathoms) consisting of sinking line to prevent floating line at the surface. Traps would be set in a "prospect string" (i.e., one trap per vertical line spaced approximately 1 mile apart) and soaked for 24 – 36 hours.

Each trap would have a web escapement panel that is 32" tall and 40" wide in a diamond configuration where each edge of the diamond measures 7" and each diamond measures 9" stretched diagonal length to allow fish and smaller crab to climb or swim out and an 18-inch opening for escapement (opens at least 11" wide) when biodegradable twine (Size No. 30) disintegrates after 30 days in the water, in case pot is lost (destruct device).

For the initial testing, a maximum of four fishing trips is expected within a 1-month period. Any proposed expansion of the fishing area or increase in fishing effort and amount of take will require additional review by the California Department of Fish and Wildlife and approval by the Commission.

While the proposed project activities are currently prohibited under state fishing laws (Fish and Game Code Section 9011 and CCR, Title 14, Section 126), the purpose of the EFP is to gather information for improving fisheries management or expanding fishing opportunities in the state by allowing researchers and fishers to engage in commercial or recreational marine fishing activities that are otherwise prohibited. All activities conducted under the EFP must comply with the terms and conditions placed on the permit for research purposes and the conservation and management of marine resources and the environment. As such, the proposed EFP project is the proper subject of CEQA's Class 6 categorical exemption.

The Commission does not believe reliance on the Class 6 categorical exemption to approve the permit under CEQA is precluded by the exceptions set forth in CEQA Guidelines Section 15300.2. The Commission's review was guided by the California Supreme Court's recent decision in *Berkeley Hillside Preservation v. City of Berkeley*. The Commission reviewed all of the available information in its possession relevant to the issue and does not believe authorizing the permit poses any unusual circumstances that would constitute an exception to the cited categorical exemption. Even if there were unusual circumstances, which the Commission does not believe is the case, no potentially significant effects on either a project-specific or cumulative basis are expected from this project.

Furthermore, all activities authorized under the EFP Program are specifically prohibited from adversely impacting any established fisheries, marine living resources, or other natural resources under the provisions of Fish and Game Code Section 1022. Therefore, the exceptions set forth in CEQA Guidelines Section 15300.2 that would preclude the use of the categorical exemption do not apply and no further review is required.