

PROPOSED AGENDA
Highly Migratory Species Advisory Subpanel

Hilton Hotel – San Diego Del Mar
Steeple Chase II Room
15575 Jimmy Durante Blvd.
Del Mar, CA 92014
(858) 792-5200
November 4, 2003

TUESDAY, NOVEMBER 4, 2003 - 8 A.M.

A. Call to Order

Bob Fletcher

B. Introductions

C. Approve Agenda, Approve April 2003 Meeting Summary

***D. Update on Status of Fishery Management Plan and Schedule for
NMFS Action***

Svein Fougner

E. Initial Considerations for Limited Entry in the High Seas Longline Fishery

1. Review Economic Information

Sam Herrick/Dale Squires

F. Other Matters

G. Develop Recommendations to the Council

ADJOURN

PFMC
10/22/03

DRAFT MEETING SUMMARY
Highly Migratory Species Advisory Subpanel,
Plan Development Team, and
Scientific and Statistical Committee's HMS Subcommittee

Pacific Fishery Management Council
Hubbs Sea World Research Institute
San Diego, CA
April 29, 2003

Highly Migratory Species Advisory Subpanel (HMSAS) Members Present:

Mr. Jock Albright, recreational at large, Costa Mesa, CA
Mr. Pete Dupuy, commercial at large, Tarzana, CA
Mr. Robert Fletcher, chair, charter boat, San Diego, CA
Dr. Doyle Hanan, public-at-large, Rancho Santa Fe, CA
Mr. John La Grange for Mr. Wayne Heikkila, vice chair, commercial troll, Eureka, CA
Mr. Chuck Janisse, gillnet, Bridgewater Corners, VT
Mr. Anthony V. Nizetich, southern processor, San Pedro, CA
Mr. Robert Osborn, private recreational, Lakewood, CA
Mr. Bill Sutton, commercial at large
Ms. Kate Wing, conservation, San Francisco, CA

Highly Migratory Species Plan Development Team (HMSPDT) Members Present:

Dr. David Au, NMFS, La Jolla, CA
Dr. Norm Bartoo, NMFS, La Jolla, CA
Mr. Steve Croke, co-chair, CDFG, Los Alamitos, CA
Dr. Sam Herrick, NMFS, La Jolla, CA
Ms. Susan Smith, NMFS, La Jolla, CA
Dr. Dale Squires, co-chair, NMFS, La Jolla, CA

Others Attending:

Mr. Jim Carretta, NMFS, La Jolla, CA
Mr. Jim Morgan, NMFS, Long Beach, CA
Mr. Russell Nelson, The Billfish Foundation
Mr. Larry Six, consultant, Portland, OR
Mr. Dan Waldeck, PFMC staff, Portland, OR
Mr. Martin Hall, IATTC, La Jolla, CA
Mr. Lillo Augello, Western Fish Company
Mr. Anthony Augello, Western Fish Company
Mr. John Gibbs, commercial fisherman

Mr. Svein Fougner, NMFS, Long Beach, CA
Mr. Tim Price, NMFS, Long Beach, CA
Ms. Penny Ruvelas, NMFS, Long Beach, CA

Call to Order, Agenda, Minutes

Team co-chair Dale Squires called the meeting to order at 9:15 a.m. on April 29, 2003. The agenda was modified to add two items: approval of the October 2002 meeting summary and history of regulation of the Hawaiian longline fishery.

The October 22-23, 2002 draft meeting summary was approved with the addition of language clarifying that the votes on motions included only the HMSAS members, not the Plan Development Team.

Summary of November 2002 Council Action and Purpose of Meeting

Svein Fougner summarized the discussion at the November 2002 Council meeting relating to the issue of turtle interactions in the high seas longline fishery. NMFS reported to the Council that it was generally comfortable with the HMS FMP with one exception, the preferred alternative to allow targeting on swordfish east of 150° W longitude. NMFS expressed the view that this could be an approvability issue when the FMP is submitted to NMFS. At the time of the action, there were little data on turtle interactions in the area east of 150° W longitude, and the Council was not in favor of a complete ban on swordfish targeting. In February 2003, additional observer data on trips out of California ports were examined, and NMFS was concerned that turtle take rates in the area east of 150 were as high as those west of the line. This could result in a jeopardy determination for listed turtle stocks. At the March 2003 Council meeting, the new data were presented to the Council, and NMFS asked the Council to delay submission of the FMP. The Council agreed to delay submission and requested that the advisory groups review the new information and make recommendations to the Council at the June meeting. NMFS asked the Southwest Fisheries Science Center to compare the take rates east and west of 150 to determine if there were significant differences. Jim Carretta of the Center was given this task, and is here today to present the results. Dan Waldeck added that he expects that the Council in June will rely on advice from the Team, Subpanel and SSC before taking action on this matter.

Pete Dupuy asked if the 150 line was set in stone, and Mr. Fougner replied that it is not. The 150 line is in the current preferred management alternative, but the Council could change the alternative in June.

Presentation of Analysis of Turtle Takes and Discussion

Jim Carretta presented “An Analysis of Sea Turtle Take Rates in the High Seas Longline Fishery in the Eastern Pacific Ocean.” The document was mailed out to Team and Subpanel members in advance of the meeting. Data from both the Hawaii-based and West Coast-based fisheries, which overlap in areas fished, were combined for the analysis. The analysis uses the Fisher exact test to test the null hypothesis that take rates in different areas or seasons are equal. Results are that observed loggerhead and leatherback turtle take rates are not significantly different east and west of

150. Olive ridley take rates are significantly higher west of the line. Loggerhead interactions are significantly higher in the first quarter of the year than the fourth quarter. Leatherback interactions are significantly higher in the fourth quarter than the first. Using the data east of 150, Mr. Carretta also presented information on take rates east and west of 130, 135, 140 and 145. Loggerhead interactions decreased as the line was moved eastward, but leatherback interactions stayed relatively constant.

Martin Hall asked if the gears used by the two fleets are similar (depth fished, hook type, bait, etc.). Mr. Carretta didn't have this information, but responded that only swordfish-style sets were used from both data sets. John La Grange noted that there are differences in regulations applied to the two fisheries, for instance the use of dyed bait is required of the Hawaii-based fleet, and the use of this bait has been shown to reduce turtle interactions. Dale Squires asked if there were oceanographic differences between years. Mr. Hall said that El Nino events might affect areas east and west of the line differently. Mr. Fougner said that it would be useful to look at the effects of these variables but there wasn't sufficient time for this purpose.

Mr. La Grange argued that the analysis should have compared Hawaii-based trips with California-based trips, rather than combining the data sets and looking at the area fished. This would allow assessment of the impacts of the West Coast fleet, which is the fishery that the FMP will be managing. Mr. Carretta presented some results for the California-based vessels only, which were not in the report.

Chuck Janisse stated that the analysis looks only at take rates, but we need to know what this means in terms of impacts to turtle populations. The language in the FMP in Chapter 9 suggests that an analysis of species risk should be conducted for the West Coast-based fishery. Mr. Fougner responded that NMFS will conduct a Section 7 consultation when the FMP is submitted and will estimate the impacts of the proposed longline fishery on the listed turtle stocks.

Jim Carretta suggested that the group might want to consider a combination time/area closure to minimize turtle impacts. David Au looked at the data east of 135 in the fourth quarter and found a statistically significant reduction in loggerhead takes, but not leatherback takes.

Martin Hall asked if a turtle migration model could be developed which might predict take rates by area. Mr. Carretta responded that it is doubtful that this could be done in the short term, but the seasonal data presented try to get at this problem.

History of Longline Regulation and the ESA Process

Penny Ruvelas briefly summarized the Endangered Species Act and the Section 7 consultation process. Bob Fletcher asked if there was a threshold established for allowable turtle impacts in the Hawaii-based longline fishery. Ms. Ruvelas replied that the most recent biological opinion (November 2002) contained a finding of "no jeopardy" for the current fishery, which by regulation is directed at tuna, not swordfish. Turtle takes were likely to be greater than zero but no appreciable effect on turtle populations could be detected.

Chuck Janisse distributed a handout summarizing information in a legal brief prepared by the attorney for the Hawaii Longliners Association (HLA). The document included a history of biological opinions and litigation relating to turtle interactions in the Hawaii longline fishery, from 1998 to the present. The HLA is challenging the “jeopardy” determination in the 2001 biological opinion, which HLA claims did not use the best available science. HLA also claimed that its procedural rights as an “applicant” had been violated. The result of the 2001 opinion was the prohibition of swordfish-style fishing north of the equator. Mr. Janisse expects that HLA will prevail in the lawsuit and that another biological opinion will be prepared. He claimed that the regulations in place are invalid because the 2001 opinion has been invalidated. Russell Nelson said that the handout is a one-sided view of the issue in favor of the HLA. Kate Wing added this has no bearing on our task at hand, and that the 2001 opinion was vacated for procedural reasons, not substantive reasons. John La Grange responded that, if NMFS had not declined to defend the biological opinion, it likely would have been invalidated on substantive grounds.

There was discussion on the task at hand for the advisors and team given the analysis of turtle takes just presented. Chuck Janisse said there appears to be a rush to adopt the FMP, so further analysis is not an alternative. We have some take rate estimates and can expand these to obtain estimates of total takes, but we can’t determine the impacts to turtle populations. We could recommend a new preferred alternative to the Council, but doubt that this would be adopted. He recommended that the Council stick with the current preferred alternative, which allows swordfish targeting east of 150, and let NMFS prepare the biological opinion on this fishery and determine if there is jeopardy. If the preferred alternative were to ban swordfish-style sets, then we will never get an analysis of a swordfish fishery. Russell Nelson said that he would expect NMFS to conclude jeopardy for the current preferred alternative based on the analysis of take rates presented. Bob Osborne suggested that we should determine if there is a third alternative which might be viable. Pete Dupuy lamented that he has been shut of other fisheries in the past, and just as the high seas longline fishery is getting developed, it could be shut down by the Council. He does not want to “short circuit” the process. If the fishery is closed after NMFS has reviewed the FMP and conducted the ESA consultation, then so be it. He added that the U.S. longline fishery is a small fraction of the total international longline effort in the Pacific.

Separate Team and Subpanel Sessions to Develop Recommendations

The Advisory Subpanel and Team held separate, concurrent sessions to discuss the analysis and prepare recommendations to the Council.

HMSAS Session

Chuck Janisse stated that accountability is the issue: we should not short cut the process; let NMFS make the determination of the impacts of the current preferred alternative. Bob Fletcher said that the analysis doesn’t tell us whether there will be a detectable impact on the listed species, but most likely there will be a jeopardy determination if we submit the current preferred alternative. Pete Dupuy added that the court might rule in favor of the HLA, and there could be a different opinion. Bob Osborne is inclined not to change anything; we need to get through this in the most expeditious manner.

Doyle Hanan asked if NMFS might change the line to 140 if the FMP were submitted as written. Svein Fougner replied that the FMP would come back to the Council for action if it were partially disapproved.

Kate Wing was concerned about constraining the issue too tightly and suggested that we consider taking no action on this fishery. If the “no-action” alternative were submitted, then a wide open fishery would be analyzed in the biological opinion and NMFS would be free to look at the suite of viable conservation measures. John La Grange agreed; maybe some other regulations would be acceptable. Chuck Janisse also agreed with this approach, but wanted to make sure the “no action” means that the fishery would still be included in the FMP and vessel owners would receive permits. He added that, in a perfect world, we would have the time and data to make good management recommendations, so the best we can do is to recommend a measure broad enough to ensure that NMFS will look at all alternatives.

Kate Wing expressed continued support for alternative 2 (the preferred alternative), because of the benefits of the seabird conservation measures and the turtle release measures, but would modify this alternative to get rid of the 150 line. This line appears to be arbitrary.

There was Subpanel consensus that the preferred alternative be modified as suggested by Kate Wing. The Subpanel also agreed that the Council should proceed immediately to develop a limited entry program for the high seas longline fishery to prevent effort increases and to minimize interactions with listed species. The Subpanel developed the following statement to be presented to the Council at the June meeting:

After considering the analysis of longline interactions with turtles presented at the April 29, 2003 meeting in San Diego, the HMSAS reached a consensus to support the current preferred alternative (Alt. 2) with one modification. The HMSAS recommends deleting all references to restrictions on swordfish targeting and the 150° W longitude line. The data presented by NMFS indicate that the 150° W division was not meaningful in terms of avoiding turtle interactions. The HMSAS did not want the Biological Opinion that will be prepared by NMFS under the Endangered Species Act to be constrained by this artificial line.

The HMSAS proposes the following language for Longlining Outside the EEZ, alternative 2, in chapters 8 and 9:

Alternative 2 (Proposed): Adopts selected seabird and sea turtle measures currently required for the Hawaii-based longline fishery. These are measures Nos. 1, 4, and 8 in Chapter 8, section 8.5.2, and would also include measures for proper handling and release of seabirds and turtles, VMS, and the requirement for vessel operators to attend a protected species workshop each year, as offered on the West Coast or in Hawaii (as described at the end of that subsection).

The HMSAS recommends that the Council adopt the FMP at their June meeting with these modifications and submit it to NMFS as soon as possible for approval.

In a related matter, the HMSAS recommends that the Council rapidly proceed with an FMP amendment to institute a limited entry program for the high seas longline fishery. This would prevent significant increases in effort and the accompanying impacts on listed species. The HMSAS recommends the Council consider ways to implement an immediate cap on effort, to be in place during the amendment development process. NMFS may be able to advise the Council on how this was accomplished for the pelagic fisheries in the western Pacific.

PDT Session

PDT held a break-out meeting after the joint session. Sue Smith read statement of Michelle Robinson and presented statement prepared by Smith and Au for this meeting. The Smith and Au statement contained talking points for the PDT statement to the Council (talking points attached). The PDT tentatively decided to recommend the Council stay with present alternative, but shift line from 150° W longitude inshore to 135-140° W longitude. The PDT recommendation also called for increased observer coverage (to 20%) and immediately begin limited entry process. Rationale for the recommendations:

1. Highest turtle take rates were observed in the most western portion of the “east” area.
2. East of 140° W longitude, no Olive Ridleys taken and Loggerhead takes significantly lower than to the west (out to 150° W longitude).
3. Leatherback take rates are lower east of 135-140° W longitude, but because of few encounters, the difference was not statistically significant.
4. 140 ° W longitude was thought to be the boundary of economic feasibility for California-based longliners.
5. Present observer coverage inadequate for rare encounter events with protected resources.

[On April 30, following the SSC HMS Subcommittee meeting (see below), the members of the PDT in attendance discussed revising their tentative recommendations, in light of the new data and proposal Carretta presented to the SSC subcommittee. The PDT decided to stay with the current recommendation of shifting line east to 140° W longitude to protect loggerheads, based on the Carretta findings. The recent analysis can be used as supporting data and Dale Squires said economic data could also be easily pulled from existing data, as this action might affect a significant portion of the fleet. The PDT agreed that they could not propose “implementable” measures for protecting leatherbacks at this time, because data are too few for analysis in the “eastern” area and analysis of impacts of a closure of a cone-shaped migratory corridor could not be prepared prior to the June Council meeting. However, if swordfishing allowed east of 140° W longitude is found to cause “jeopardy” leatherback turtles, the PDT recommends that NMFS consider including in the RPAs a seasonal closure defined by the cone-shaped migratory route of leatherbacks (as per recent tagging data). Chuck Janisse (HMSAS) suggested that if jeopardy is found, that the Council request “applicant” status so it can participate in development of RPAs.]

The PDT recommendations are pending review and approval of PDT members unable to attend this meeting (Robinson and McCrae). Final recommendations are detailed in the PDT report to the Council – Exhibit F.2.c, Supplemental Second Revision of the HMSPDT Report, June 2003.

Continuation of Joint PDT/Subpanel Meeting

Kate Wing read the Subpanel statement for the benefit of Team members. Dale Squires summarized the Team's preliminary recommendation. He emphasized that the recommendations are provisional. The Team wants to consult with the absent Team members and listen to the SSC Subcommittee comments at their session tomorrow. The major elements of the Team's preliminary recommendation are to move the line to 135° W longitude, implement 20% observer coverage, and initiate a limited entry program. This is a precautionary move to lower interactions with loggerheads and still provide a viable fishery.

Bob Fletcher noted that under the Team proposal, there could be a "no jeopardy" opinion, whereas under the Subpanel proposal, we would assume a "jeopardy" opinion and then hope that NMFS and industry will come up with reasonable and prudent alternatives. Josh Albright said that if the Council adopts a 135 line, there should be an analysis of the bycatch impacts. Svein Fougner said he would ask the observer program to send bycatch data to the Team before the May 28 deadline.

After discussing the Team proposal, the Subpanel was not inclined to change its recommendation.

The joint meeting was adjourned at 5:30 p.m. on April 29, 2003.

SSC Meeting

On April 30, 2003, Jim Carretta presents his analysis to the HMS subcommittee of the SSC. The subcommittee found the technical aspects of the statistical analysis sound, but requested further details concerning the database used and on inter-fishery differences before making a final determination about the validity of pooling data. Carretta also presents another possible alternative for the fishery to protect turtles based on his recent analysis and current leatherback turtle satellite tagging results. This alternative would close fishing in 1st quarter in the area west of 140° W longitude and south of 34° N latitude to protect loggerheads (based on current longitudinal statistical analysis), and close fishing in the 4th quarter south of 34-36° N latitude out to 145° W longitude to protect leatherback turtles in their migratory corridor (based on turtle tagging).

The findings of the subcommittee will be presented to the SSC at the June 2003 Council meeting. At that time, the SSC will develop their consensus statement and recommendations to the Council.

Appendix

High Seas Longline Issue-Talking Points for Team Position to Discuss at April 29-30 2003 PDT Meetings, Smith and Au -- April 29, 2003

Background/History

The preferred Alternative 2, now being re-examined, would adopt for the California-based fleet most bird and turtle mitigation measures currently in effect for Hawaiian vessels, except that it would allow targeting of swordfish east of 150° W longitude. A measure similar to this one, (without a specific 150° W longitude boundary) was developed by the Plan Development Team under the reasoning that if the oceanography of the core fishing areas of the Hawaii and California longline fleets differed, so might the bycatch risks.

In 2001, the PDT reviewed all existing longline observer data, but concluded they were still insufficient to conclude whether risks differed in the area east of 140° W longitude where most of the California fleet fished, than in the area west of 150° W longitude, where most of the Hawaii fleet operated.

So the PDT stressed that if swordfish targeting would continue to be allowed east of 150° W longitude (at least for the time being), the Council should immediately call for an updated, “area-specific” examination of bycatch and protected species risks, especially in the core fishing area east of 140° W longitude. Then, if additional measures (like closures) were necessary, these would at least be tailored to this fleet and its fishing area.

The “Middle Ground” Option: The PDT wanted to provide the Council with an option between continuing the status quo and implementing a total swordfish ban. We realized California longliners have less flexibility than the Hawaii longliners who can fish for tuna both on the high seas and closer to port within their own EEZ, and have a more protracted fishing season. Thus with a total swordfish ban, our fleet will likely go out of business or move elsewhere in the Pacific.

Comments on Recent Analysis

General

- The recent analysis of turtle take rates completed by NMFS SWFSC-SWR in April 2003 provides important updated information, especially on the two areas east and west of 150° W longitude, the boundary that marks the eastern edge of the core Hawaii longline fleet fishing area.
- By combining observer data from both the Hawaii-based and California-based fleets, and using this single dividing line, we now have enough data to at least draw conclusions for the large-category areas east and west of this line, BUT, on the other hand, the data are weighted toward observations of takes on the western fringes of our fleet, and much nearer the core of the Hawaii fleet. Thus, the results may be more representative of the dynamics of the Hawaii

fleet than the California fleet, in which we are most interested. [**At the April 29-30 meetings it was revealed that the distribution of the fleet has changed since 2000, with two concentrated fishing areas, one east of 140° W longitude and one between 145° W longitude and 150° W longitude, some of the fleet moves west as season progresses–SES]

- Data for California fleet alone are still not sufficient to conduct a separate analysis with statistically reliable results. (Mandatory observers since 2002 only)
- Nonetheless, comparing these two East-West areas, we see that the turtle take rates east of 150° W longitude were, overall, not significantly less than those west (except for the olive ridley).
- But, we also see the following –
 1. highest rates were observed in the most western portion of the ‘East’ area
 2. east of 135° W or 140° W, not only were no Olive Ridley takes observed, but also the Loggerhead take rates were significantly lower than to the west (out to 150° W longitude).
 3. Leatherback turtle take rates were also lower, but because of the small sample size and few encounters of this rare endangered species, no conclusion on an East-West difference is possible.
 4. The distribution of the observer sampling effort used in the analysis for the West Coast-based fleet differs from that of logbooks 1994-2000 and current fishermen’s accounts.
- Comment re Hawaii recent Bio Opinion: If takes of 8 leatherbacks per year (estimated for the current Hawaii fishery) are not expected to jeopardize the Leatherback population (considering its relation to takes by other fisheries in the Pacific (Biological Opinion, November 2002), perhaps take by the West Coast fleet may likewise not jeopardize this species, especially with certain area or season closures. This needs to be determined.
- Imbalance on mitigation technique use in data: Hawaii vessel data reflect at least in part, vessels already implementing certain turtle mitigation measures, while California-based vessels were not so mandated, so California rates may be comparatively even lower than indicated.
- Loggerhead and Olive Ridley are the main issues in the Hawaii Fleet, but Leatherbacks are the main issue here, since takes of the first two are significantly less. Fishing shallow allows Leatherbacks to better survive hookings, since this species tends to become foul-hooked rather than take the bait in their mouths. Being forced to fish deeper will kill more turtles, although this may be compensated for, in whole or in part, by lower encounters in deeper water.

Advice to Council

- If the Pacific Council chooses to go with a total swordfish ban, much may hinge on whether fleet will disappear or not. If some choose to stay and re-target on tuna, the fleet will need an incidental take allowance for listed species such as the Leatherback Turtle.
- The Consultation Process: As with any FMP, there will have to be a formal consultation under Section 7 of the ESA. The consultation would occur while the proposed FMP is under official NMFS review for approval or disapproval. NMFS would then determine whether there is a jeopardy situation and, if not, assuming the fishery were still operating, would issue an incidental take statement with possible other terms and conditions.
- With the swordfish ban, the fishery will likely cease to exist, with some vessels relocating to other areas like Hawaii, or re-flagging to other Pacific Rim nations.

Possible Team Recommendations

- The team wants the FMP process to proceed with no further delays.
- The team recommends the Council continue with the present preferred option (Alt 2), but
 1. move the boundary line further east to 140° or 135° W longitude,
 2. mandate immediately at least 20% observer coverage,
 3. Start the process immediately for imposing some form of limited entry to prevent an influx of new effort into the fishery, and subsequently,
 4. Closely monitor the fishery, updating take analyses every year in the SAFE document.

Also:

- The present and recent observer monitoring of the West Coast high seas longline fleet is inadequate with respect to representing the fleet and to obtaining annual take rates, especially of the Pacific Leatherback, which is so rarely encountered.
- Adequate monitoring is also needed to assess encounter rates with seabirds and fish bycatch, as well as turtles. And vessels must have sufficient coverage rate and be monitored over several years, since there will be years when no turtles are taken at all.
- The team will support whatever the Council's final decision will be on this issue, and thanks the NMFS Southwest Region and Southwest Fisheries Science Center for providing these most recent analyses.

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