

## FMP AMENDMENT 10 (SHORE-BASED WHITING MONITORING)

A permanent monitoring program for the shore-based Pacific whiting fleet needs to be developed and implemented. This program would meet the requirements to monitor incidental catches of salmon in the whiting fishery, as stipulated in the 1992 Biological Opinion that analyzed effects of the Pacific Coast groundfish fishery on Endangered Species Act (ESA)-listed salmon stocks. Such a program would also allow for accurate tracking of depleted groundfish species mortality.

The issue of salmon retention in the groundfish trawl fisheries was first brought before the Council in 1996 in the form of Amendment 10 to the Pacific Coast Groundfish Fishery Management Plan (FMP) and Amendment 12 to the Pacific Coast Salmon FMP. Based on an Environmental Assessment drafted to analyze these amendments, the Council recommended the temporary use of the exempted fishery permit (EFP) process until a permanent monitoring program could be developed and implemented in the shore-based Pacific whiting fishery. Since that time, the EFP process has been employed each year to monitor this sector. However, EFPs are intended to provide for limited testing of a fishing strategy, gear type, or monitoring program that may eventually be implemented on a larger fleet-wide scale and are not a permanent solution to this monitoring issue. Results of the shore-based Pacific whiting EFPs indicate that it is feasible to retain and appropriately monitor the incidental take of salmon and groundfish other than Pacific whiting in the shore-based Pacific whiting fishery.

The Council has considered this monitoring issue at a number of meetings since 1996. At the September 2003 meeting, the National Marine Fisheries Service (NMFS) presented a preliminary draft Environmental Assessment that included a range of alternative monitoring systems for the shore-based Pacific whiting fishery. The Council recommended postponing adoption of a preliminary range of alternatives until more public input could be collected. Following a public scoping meeting convened in Newport, Oregon, the Council again considered the alternatives and adopted a preliminary range at the June 2004 meeting. However, a number of issues concerning how the monitoring program would operate to meet analytical requirements under the Magnuson-Stevens Fishery Conservation and Management Act and the ESA were still unresolved at that time, and the Council again postponed taking final action.

From 2004 to the present, NMFS and the states have operated the fishery under an EFP using an electronic monitoring system to verify maximized retention at sea. Amendment 18 adopted electronic monitoring as a potential fishery monitoring tool, in Section 6.4.1.1 of the FMP:

*Electronic monitoring is an automated alternative to some human data collection systems. Electronic monitoring equipment may provide accurate, timely, and verifiable information on some elements of fishing operations at a lower cost than that provided by an at-sea observer. Electronic monitoring is an integrated assortment of electronic components combined with a software operating system. An electronic monitoring system typically includes one or more video cameras, a CPU with removable hard drive, and software that can integrate data from other components of a vessel's electronic equipment. The system autonomously logs*

*video and vessel sensor data during the fishing trip without human intervention. When the vessel has completed its fishing operations and returned to port, the video and other data are transferred to a separate computer system for analysis. Video records are typically reviewed by human samplers on shore, but electronic techniques are being developed to automate some of this activity.*

At its June 2006 meeting, under Agenda Item B.6., “Workload Priorities,” the Council asked that the three State agencies and NMFS meet over the summer to discuss next steps in a monitoring and management program for the shore-based whiting fishery. The Council also asked that the agencies discuss the analysis that would be needed to implement sector bycatch caps for overfished species and/or salmon taken in the three non-tribal whiting sectors.

State and Federal agency technical staff met with each other via conference call on Monday, July 31, 2006. Technical staff then reported to and met with State and Federal agency policy staff on Wednesday, August 2, 2006. A joint agency report summarizing those meetings is provided as an attachment for this agenda item.

**Council Task:**

- 1. Provide comment on joint agency report and recommendations for further issue development.**

**Reference Materials:**

1. Agenda Item C.8.b, Summary of Joint Agency Meeting: Report on Joint State-Federal Discussion on Whiting Fishery Monitoring and Management, Particularly for the Shore-Based Whiting Fishery.
2. Agenda Item C.8.b, Example EFP: Example of a 2006 Pacific Groundfish Exempted Fishing Permit for Monitoring Incidental Catch in the Shore-Based Pacific Whiting Fishery.

**Agenda Order:**

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|--|--------------|
| a. Agendum Overview  | Laura Bozzi  |
| b. Joint Agency Meeting Review   | Agency Staff |
| c. Reports and Comments of Advisory Bodies                                   |              |
| d. Public Comment  |              |
| e. <b>Council Action:</b> Assess Current Status and Recommend Future Action. |              |

PFMC  
8/28/06

REPORT ON JOINT STATE-FEDERAL DISCUSSION ON  
WHITING FISHERY MONITORING AND MANAGEMENT, PARTICULARLY FOR THE  
SHORE-BASED WHITING FISHERY

At its June 2006 meeting, under agenda item B.6., “Workload Priorities,” the Council asked that the three State agencies meet with the National Marine Fisheries Service (NMFS) over the summer to discuss next steps in a monitoring and management program for the shore-based whiting fishery. The Council also asked that the agencies discuss the analysis that would be needed to implement sector bycatch caps for overfished species and/or salmon taken in the three non-tribal sectors of the whiting fishery.

Technical staff from the State and Federal agencies met with each other via conference call on Monday, July 31, 2006. Technical staff then reported to and met with State and Federal agency policy staff on Wednesday, August 2, 2006. The agencies provide this report summarizing those meetings to provide background so that the Council may receive comments from its advisory bodies and the public to in support of Council guidance for moving forward on whiting fishery management.

SHORE-BASED WHITING SECTOR MONITORING AND MANAGEMENT

*Need for and purpose of moving from exempted fishing permit (EFP) management to permanent regulations for the shorebased whiting fishery*

The shore-based sector of the whiting fishery needs to have a catch accounting system in place to: accurately track Chinook salmon takes as required in the ESA section 7 Biological Opinion for Chinook salmon catch in the Pacific whiting fishery; provide catch data on species incidentally taken in the whiting fishery to meet the standardized reporting methodology defined by the Magnuson-Stevens Act; provide the opportunity to collect biological data on catch that would not otherwise be available if catch were sorted at sea; and create the regulatory structure necessary to efficiently manage the whiting fishery (for both the agencies and fishery participants) without an EFP.

*Purpose of the moving forward with a new management regime for this fishery:*

- Establish a program that benefits shore-based whiting sector participants by allowing the fishery to be prosecuted efficiently;
- Establish a program that benefits the whiting industry and buyers by allowing the whiting quality to be maintained throughout the harvesting and delivery process;
- Establish the framework for a program that minimizes discarding of catch to the extent practicable;
- Establish a standardized reporting methodology for the collection of accurate data from the shore-based whiting fishery;
- Establish a monitoring mechanism that is adequate to maintain the integrity of the maximized retention program.

## TECHNICAL STAFF MEETING SUMMARY FOR SHORE-BASED WHITING MONITORING AND MANAGEMENT ISSUES

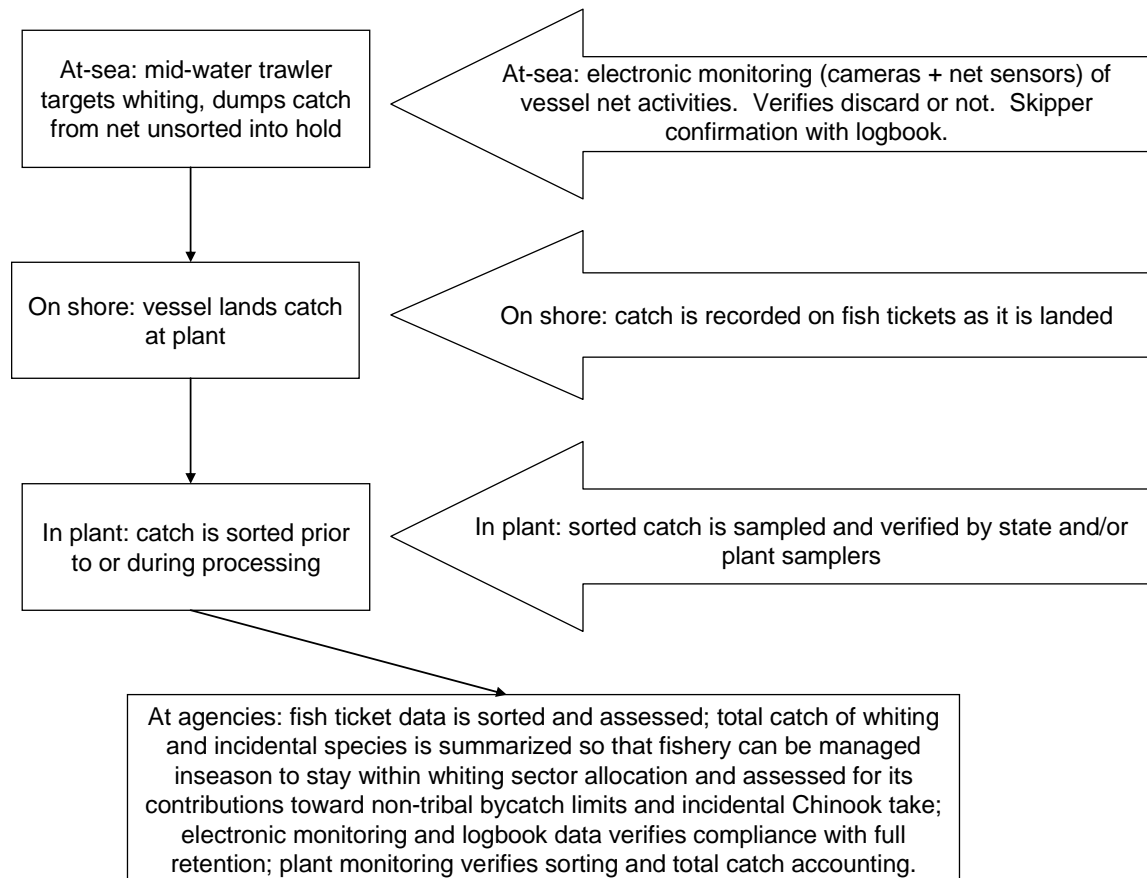
State and Federal agency staff met via conference call on July 31, 2006, to discuss procedures for and challenges with monitoring and assessing catch from the shore-based whiting sector after it is brought to shore. Call participants assumed that the fishery would continue to be managed as a maximized retention fishery – that is, as much catch as possible would be brought to shore, and would be landed unsorted. Maximized retention at sea would continue to be verified by approved monitoring mechanisms on the vessels.

*Purpose of a monitoring program is the collection of data that is adequate to:*

- Measure fleet-wide total catch by species (groundfish and protected species) over the length of the season.
- Measure total catch of target and bycatch species for tracking cumulative catch on a weekly basis throughout the season.
- Track catch and disposition of salmon

*Possible Future Purpose of a monitoring program:* Assess data and monitoring needs to support sector bycatch limits

*Current data flow in shore-based whiting fishery:*



*Reporting needs for this fishery:* The data reporting needs (timing and species-specific accounting) are greater in this fishery than in the non-whiting groundfish fishery because the management strategy for this fishery is more flexible than that used under the non-whiting groundfish fishery.

- Management under a bycatch limit regime allows fishery participants greater access to target species OY. Therefore, the monitoring needs associated with such a regime are more demanding if fishery is to be managed to stay under target quota and bycatch species limits.
- Management under a maximized retention regime allows fishery participants to land unsorted catch in a high-volume fishery without having tracked that catch prior to offloading. Therefore, the fishery has the potential to be a greater risk to Chinook salmon and overfished groundfish species, because it is permitted to operate within the Rockfish Conservation Area.

An on-shore sampling program needs performance standard recommendations from Council and its advisory bodies. What level of sampling/verification of reporting accuracy is expected if inseason fishery management staff is to ensure that the collective non-tribal whiting fisheries do not exceed overfished species bycatch limits, such as the 2006 fleetwide limit of 4.7 mt of canary? What level of sampling/reporting accuracy would be expected if inseason fishery management staff is to ensure that one of the sectors within the collective non-tribal whiting fisheries does not exceed overfished species for the sector – for example, less than 2 mt of canary?

*Fish ticket system and the shore-based whiting fishery:*

- Ensuring accurate and swift fish ticket reporting requires intensive port biologist work with and in the fish plants; PacFIN-style fish ticket data receiving not swift enough to manage this fishery
- ODFW runs a parallel database (to PacFIN) to track total catch from fish ticket data manually collected and submitted by three states at a speed that supports inseason quota monitoring
- Fish tickets subject to a more swift checking and verification system than in non-whiting fishery – states track issues and errors with plants at time of fish ticket receipt
- During primary season, fish ticket data collected on a weekly basis
- Sorting at the point of landing is required for fish ticket accuracy. California requires processing at the site of landing and defines processing as including cutting the fish, but may need to provide for whole fish markets. California and Washington have found that bycatch that went missing during sorting is later “found” during processing, and have had mixed results in getting catch information from processors when catch is processed off-site.
- Ideas to address current incentives for plants to under-report bycatch, or to delay fish ticket submission:
  - Certified weighmaster program, as in California herring fishery, where each plant would be required to have a trained and certified weighmaster on duty throughout every whiting landing, and that weighmaster would be responsible for verifying the accuracy of landings weights/numbers/species reported by plants.
  - Whiting processor permits that would come with obligations for participating in the fishery – timely and accurate fish ticket reporting, weighmaster program

participation, certain level of catch sampling (if done by processor,) recording to species (rather than market category) on a fish ticket, etc. If processors did not meet the stated performance measures in a given year, the permit would be subject to revocation.

- Hold back a portion of the sector allocation and assess compliance mid-season. Plants that have complied get access to that held-back portion; plants that have not complied, do not.
- Implement electronic fish ticketing for shore-based whiting fishery as a pilot program for West Coast electronic ticketing with priority for implementation at largest facilities first

*Plant sampling in the shore-based whiting fishery:*

- In California and Washington, in-plant samplers are state employees; in Oregon, in-plant samplers are plant employees, with some monitoring by state personnel
- Sampling rates vary by plant in two ways:
  - The number of deliveries sampled out of total deliveries received at a plant varies between plants
  - Of the deliveries sampled, the percentage of the weight sampled in each delivery also varies between plants and between deliveries
- Different plants see different incentives to either sample themselves or to facilitate state sampling – some see incentives to prove that they're clean, others see incentives to hide incidental catch
- Inconsistent training of state/plant samplers and across states
- Regulations dealing with plant sampling need to ensure that plant samplers have access to the catch, as well as time and space (sorting table) to sample the catch

**POLICY STAFF MEETING ISSUES FOR COUNCIL CONSIDERATION ON SHORE-BASED WHITING MONITORING AND MANAGEMENT**

- EFP has still not been managed as the fishery would be if regulations were in place; need to review draft regulation in Council process so that 2007 EFP can be managed under structure as similar to anticipated regulations as possible.
- Electronic monitoring funding, both for camera placements and maintenance and for data evaluation, has come from NMFS temporary funds for bycatch-minimization experiments. Funding for permanent regulatory program uncertain.
- Some in-plant monitoring and inseason catch data assessment has come from State temporary funds. Funding for ongoing program management uncertain.
- Logbooks need to be evaluated for their applicability to this fishery. May need to design logbook specific to shore-based whiting fishery, rather than trying to use the multi-species bottom trawl logbook. Would logbook and resulting data be State or Federal? Paper or electronic?
- Current and long-term adequacy of port biologist coverage in all three states is a concern for management of all fisheries, including the shore-based whiting fishery. Port biologist program has been level-funded for several years, while program costs have increased, ultimately resulting in fewer port biologists in fewer ports. Should Council request that

Pacific States Marine Fisheries Commission evaluate the adequacy of port biologist coverage to address fishery management needs?

- If this fishery were transitioned to regulations, aligning State regulations with each other would be challenging because of the different in-state processes and requirements. Optimally, most regulatory requirements would be Federal, so that states could adopt through in-place concurring processes. May need to consider how to get issues currently addressed in state-processor agreements addressed in Federal regulations.

## POLICY & TECHNICAL STAFF MEETING ISSUES FOR COUNCIL CONSIDERATION ON SECTOR-SPECIFIC BYCATCH LIMITS FOR ALL NON-TRIBAL WHITING SECTORS (CATCHER/PROCESSOR; MOTHERSHIP; SHORE-BASED)

### *Sampling Summary for Three Whiting Sectors*

- Catcher/processor sector: industry pays for two third-party (non-government, non-industry) observers on each vessel; approximately 50% of all catch, by weight, is sampled.
- Mothership sector: industry pays for two third-party observers, who sample all of the catch that is processed; data gap on whether catcherboats delivering to motherships are maximizing their catch retention, so need monitoring mechanism for catcherboat operation. On an annual basis, about half of the catcherboats that deliver to the shore-based plants also deliver to motherships during that sector's fishery.
- Shore-based sector: industry-employed samplers combined with state samplers; sampling rates vary between plants and, within each plant, between deliveries.

### *Issues to Consider in Developing Sector-Specific Bycatch Limit Program*

- Sampling protocols under sector-specific limits would have to be designed to achieve greater precision and accuracy, since we would have to find/count/estimate smaller quantities of bycatch species.
- Bycatch estimates for particular species tend to be less precise when those species are a small proportion of total catch (low bycatch rates within a high-volume fishery) – as with salmon or overfished species taken in the whiting fishery. Need to provide Council and SSC with analysis of desired precision of estimates of total catch, overfished species catch, and salmon catch to better understand how to structure monitoring for sector-specific bycatch limits.
- The cost of data collection rises with increased monitoring. Need to know what the tradeoffs are between costs of increased monitoring and precision needs for fleetwide and sector limits
- If you set sector-specific bycatch limits, would you base those limits on:
  - A proportion of the bycatch species equal to the proportional allocation of whiting, so that if a sector gets 40% of whiting, it gets 40% of canary? This could end up distributing bycatch species quantities to sectors that may or may not need those quantities.
  - OR, a historical look at bycatch species taken in each sector? This could end up “punishing” the sector with the best bycatch record by giving them the lowest bycatch limits. Different sectors have different historical sampling rates, and different associated sampling accuracy.

- OR, some other method?
- Alaska Pollock CDQ fishery has bycatch limits – sampling rates there might provide an example of how to address sampling rates for sector-specific limits in whiting fishery.
- Whiting fishery has varied in the past in terms of which bycatch species are problematic in any one year, and in terms of which sector has problematic bycatch rates in any one year. Sector-specific bycatch rates would eliminate the flexibility of moving available bycatch between sectors

## 2007 EXEMPTED FISHING PERMIT

The EFP program for 2007 should be designed so that its requirements are as close as possible to the regulations that would need to be in place to manage this fishery under long-term Federal regulations, rather than through an annually-issued EFP. The EFP program for the shore-based whiting fishery includes the EFP itself, which is a permit issued by NMFS to participating vessels, state agreements with participating vessels, state agreements with fish processors, and state and federal fishery monitoring. In other words, NMFS requirements affect vessel activities at sea and until the point of landing, and state requirements affect vessel activities from the point of landing and affect processor activities. Depending on guidance from the Council, the 2007 EFP itself may need to include technical protocols for electronic monitoring equipment, logbook requirements specific to this fishery, and a constraint on yellowtail rockfish bycatch, as it applies to vessels (converting the “penalty box” restrictions.) The states and NMFS will also need to work with industry to evaluate funding for these programs and to evaluate on shore processes so that fish tickets are delivered on a more regular and frequent basis, and on a consistent basis from plant to plant.

### **July 31, 2006 agency technical call participants:**

California Department of Fish & Game: Susan Ashcraft, Mike Fukushima

Oregon Department of Fish & Wildlife: Steve Parker, Mark Saelens (Patty Burke, Gway Kirchner, and Maggie Sommer attended as policy staff, but did not participate)

Washington Department of fish & Wildlife: Brian Culver

National Marine Fisheries Service: Gretchen Arentzen, Elizabeth Clarke, Jonathan Cusick, Yvonne deReynier (facilitating,) Becky Renko

### **August 2, 2006 agency policy-technical call participants:**

California Department of Fish & Game: Susan Ashcraft, Marija Vojkovich

Oregon Department of Fish & Wildlife: Patty Burke, Gway Kirchner, Curt Melcher, Mark Saelens, Maggie Sommer

Washington Department of fish & Wildlife: Phil Anderson, Brian Culver

National Marine Fisheries Service: Gretchen Arentzen, Elizabeth Clarke, Jonathan Cusick, Yvonne deReynier, Frank Lockhart (facilitating,) Becky Renko

PACIFIC COAST GROUND FISH FISHERY EXEMPTED FISHING PERMIT (EFP)

AUTHORITY: Title 50, Code of Federal Regulations  
Sections 600.745 and 660.406, and Subpart G of part 660

MONITORING INCIDENTAL CATCH IN THE SHORE-BASED  
PACIFIC WHITING FISHERY

F/V **Vessel name**

PERMIT # **06-HAK-XX**  
Pacific Coast Groundfish  
Limited Entry Permit # xx

The Administrator of the Northwest Region of the National Marine Fisheries Service (NMFS), acting on behalf of the Secretary of Commerce, hereby permits the fishing vessel [**insert vessel name**], documentation number **XXXXXX**, to engage in the exempted harvest of Pacific Coast groundfish over which the United States exercises fishery management authority under the Magnuson-Stevens Fishery Conservation and Management Act, 16 United States Code 1801 *et seq.* (Magnuson-Stevens Act), and implementing groundfish regulations at 50 CFR Part 660, Subpart G and section 600.745, and under salmon regulations at 50 CFR 660.406. The exempted fishing must be conducted in accordance with the provisions of the Magnuson-Stevens Act and 50 CFR Parts 600 and 660, Subpart G except as provided in the attached terms and conditions incorporated herein.

This permit implements a cooperative state/federal/industry observation program to monitor the bycatch of salmon and groundfish in the shore-based component of the Pacific whiting fishery. This permit is valid when signed by both the Regional Administrator and the authorized representative of the vessel owner (hereinafter referred to as the "EFP holder"). It expires 24 hours after notification by the Regional Administrator of termination of this permit, or when any of the provisions listed at E.2. are met, or on 11:59 p.m. PST December 31, 2006, whichever is earlier. It also may be terminated or modified earlier by regulatory action pursuant to 50 CFR Part 660, Subpart G, or revocation, suspension, or modification pursuant to 15 CFR Part 904, or successor regulations, or by the terms and conditions of this permit.

\_\_\_\_\_  
Signature  
D. Robert Lohn, Regional Administrator  
Northwest Region  
National Marine Fisheries Service

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Signature  
**XX**, EFP holder.

\_\_\_\_\_  
Date Signed

By signing this document, the EFP holder agrees that the EFP holder, the vessel owner(s), all vessel operators, and crew members of the vessel will comply with the intent and the terms and conditions of this permit. Further, the EFP holder is responsible for seeing that conditions of this permit are understood by the vessel owner(s), the vessel operator(s) and vessel crew.

EFP Holder's Name/Address:  
**name, address, phone, fax XX**

## EXEMPTED FISHING PERMIT

### MONITORING INCIDENTAL CATCH IN THE SHORE-BASED PACIFIC WHITING FISHERY

#### TERMS AND CONDITIONS

##### A. PURPOSE.

The purpose of this exempted fishing permit (EFP) is to evaluate a maximized retention and monitoring program in the shore-based Pacific whiting fishery off the coasts of Washington, Oregon, and California.

The objectives of this maximized retention and monitoring program are to allow efficient prosecution of the shore-based whiting fishery, track total catch in the shore-based whiting fishery, and minimize discard to the extent practicable. If these objectives can be achieved in an efficient and enforceable manner, this maximized retention and monitoring program may be transitioned into Federal regulations. If these objectives cannot be achieved in an efficient and enforceable manner, the shore-based whiting fishery may be required to operate under the Pacific Coast groundfish trip limit management system and sort all catch at sea.

##### B. BACKGROUND.

A maximized retention program would reduce discards in the Pacific Coast groundfish fishery by enabling the shore-based whiting fleet to land prohibited species as well as groundfish species taken in excess of cumulative trip limits. By allowing vessels to land unsorted catch at processing plants, a maximized retention program helps ensure quality whiting products by enabling catch to be placed in refrigerated seawater tanks immediately after capture. Additionally, a maximized retention and monitoring program will improve the ability of fishery management agencies to track the catch of whiting as well as the incidental catch, including prohibited species as defined in Federal regulation at 50 CFR 660.302 and 660.370(e) (i.e., Pacific salmon, Pacific halibut, and Dungeness crab) and overfished groundfish species (i.e., widow rockfish, darkblotched rockfish, canary rockfish, Pacific ocean perch) in the shore-based whiting fishery, thereby, helping to establish a standardized reporting methodology for this fishery.

Using this EFP to target any species other than whiting is contrary to the intent of this EFP. Use of this EFP to target species other than whiting may result in federal fishery violations and early attainment of the 2006 optimum yields (OYs) for groundfish species other than whiting. Early OY attainment for groundfish species other than whiting could result in NMFS having to close the coastwide fishery and/or having to terminate the EFPs. If the EFP were terminated, the participants in the shore-based whiting fishery would be required to sort their catch at sea and operate under groundfish trip limit management.

##### C. SCOPE.

1. This permit applies to all fishing activities by the permitted vessel targeting on Pacific whiting during the effective dates of the permit. **In addition to all applicable terms and conditions in this document, the EFP holder is responsible for instructing all**

**vessel operators and crew members concerning the terms and conditions of this permit.**

2. This permit authorizes, for limited purposes as described in this permit, the following activities which would otherwise be prohibited by 50 CFR 660.306 (a)(2) and (6) and 50 CFR 660.405 (a)(1):
  - a. Retention, until offloading, of prohibited species (defined at §§660.302 and 660.370(e)) incidentally caught in a midwater trawl;
  - b. Retention, until offloading, of groundfish in excess of trip limits.
3. All other provisions of 50 CFR Part 660, Subpart G, including restrictions specified by or pursuant to 50 CFR 660.323, apply to fishing conducted under this permit.

**D. PERMIT CONDITIONS.**

1. This permit is valid only for a vessel participating under the States' observation program that is using legal midwater trawl gear to target Pacific whiting, as defined at D.3. during the primary season of the shore-based fishery.
2. All fishing trips by the permitted vessel targeting on Pacific whiting, as defined at D.3., during the effective dates must be conducted in accordance with this permit.
3. A fishing trip targeting on Pacific whiting is defined for the purposes of this permit as a fishing trip resulting in the landing of 10,000 pounds or more of Pacific whiting.
4. If a vessel lands less than 10,000 pounds of Pacific whiting from a fishing trip, then that trip will not be considered as "targeting on Pacific whiting," and therefore that trip will not be governed by this permit. Consequently, for that trip, the vessel must comply with all applicable trip limits and sorting requirements and all fish landed for such a trip will count toward any cumulative trip limits in effect.
5. All groundfish caught in excess of current trip limits, but required to be retained under this EFP, must be abandoned to the State of landing immediately upon offloading. No vessel can receive payment for any fish landed in excess of any cumulative trip limits in effect. Consistent with §660.373(b)(3), trip limits in Table 3 of 50 CFR Subpart G apply to this fishery. For species that do not have specific midwater trawl trip limits listed in Table 3, the "multiple bottom trawl gear" trip limits apply to vessels fishing under this EFP, even though the participating vessels are required to use midwater gear to participate in this fishery.
6. All prohibited species (defined at §660.302 and 660.370(e)) incidentally caught in a midwater trawl, and required to be retained under this EFP, must be abandoned to the State of landing immediately upon offloading.
7. When the vessel is targeting Pacific whiting and fishing under this permit as well as participating in the Pacific Coast groundfish fishery and not fishing under this permit

during a single cumulative limit period, groundfish caught will count against a vessel's cumulative trip limits for those species.

E. EFFECTIVE DATES.

1. This permit is effective when signed by the NMFS Regional Administrator and the EFP holder. If the permit is signed by the NMFS Regional Administrator and the EFP holder on different dates, the effective date is the date of the EFP holder's signature.
2. This permit is only valid while the vessel is participating in the 2006 Pacific whiting primary season for the shore-based sector, as announced Federal regulations at §660.373, unless terminated at an earlier date by one of the following actions:
  - a. At the request of the vessel owner, in which case the permit is terminated on the date requested and no further notification from the Regional Administrator or State is required. The vessel owner is responsible for advising the EFP holder of the termination of the permit.
  - b. At the request of the cooperating State, when the State observation program ends, or when the processing plant(s) designated in Appendix A are no longer included in the sampling program conducted by the State, in which case written notification from the State to the vessel owner is required and termination occurs 24 hours after delivery of the notification or any later time specified in the notification. The vessel owner is responsible for advising the EFP holder of the termination of the permit.
  - c. When the Regional Administrator determines it is necessary to issue amended permits containing additional restrictions, in which case termination occurs upon NMFS receipt of a signed amended permit, or seven days after the NMFS mailing date of the amended permit, whichever occurs first. The vessel owner is responsible for advising the EFP holder of the termination of the permit.
  - d. When the shore-based sector of the Pacific whiting fishery is closed because of achievement of the allocation, commercial harvest guideline, or species' harvest guideline, in which case termination occurs concurrent with the closure, as announced in the Federal Register, in which case further written notification of the vessel owner is not required.
  - e. When the shore-based sector of the Pacific whiting fishery is closed because a commercial whiting fishery bycatch limit has been reached, as announced in the Federal Register, in which case further written notification of the vessel owner is not required.
  - f. When the closure of the shore-based sector of the Pacific whiting fishery is announced in the Federal Register.
3. A copy of this EFP must be carried on board the vessel while EFP fishing and whenever fish caught while fishing under the EFP are onboard the vessel.

## F. FISHING RESTRICTIONS.

1. Maximized Retention. All catch, with the exception of unavoidable discards (see paragraph 2.b. below), must be brought onboard the vessel and retained until offloading.
2. Discard. For the purpose of this EFP, discard is defined as any marine organism, such as any groundfish species (including whiting), prohibited species, marine mammals, seabirds, and sea turtles, captured as a result of fishing activity and returned to the sea. **When fishing under this EFP, efforts must be made to minimize discard.** Only certain types of discard, as described below, are authorized under this EFP.
  - a. Size: Large individual marine organisms, such as marine mammals, seabirds, or fish species longer than 6 ft in length, may be discarded. If a large individual marine organism is discarded, the species and reason for discarding shall be recorded and labeled "discard" in the logbook required by the State of landing.
  - b. Unavoidable Discard: Unavoidable discard, or discard that results from such things as hazardous weather conditions, unusual codend condition, school density, and net cleaning, must be minimized to the extent practicable. If unavoidable discard occurs, an estimate of the total discard amount for each species, to the extent possible, location of the tow, and reason for discarding must be recorded, and labeled "discard" in the logbook required by the State of landing.
  - c. Avoidable Discard: Avoidable discard, or discard that results from such events as malfunctioning net sensors and/or catching more fish than is necessary to fill the hold, must be minimized to the extent practicable. Vessels will be required to take whatever gear-related steps are necessary (e.g., shortening the codend, operational net sensors) to avoid discard by preventing overfilling of the net and/or hold.
2. Disposition of salmon. Salmon caught under this permit must be retained and abandoned to the State of landing immediately upon offloading.
3. Groundfish trip limits.
  - a. Groundfish trip limits will apply to vessels operating under this permit except that overages in trip limits will not be in violation of 50 CFR 660.306 (a)(6) so long as such overage is surrendered to the State of landing.
  - b. The Regional Administrator may place limits on the overages of groundfish trip limits during the course of the exempted fishery. If such restrictions are necessary, the Regional Administrator will terminate this permit and issue an amended permit containing the additional restrictions on groundfish trip limits as determined necessary by NMFS in consultation with the states.
4. Fishing shoreward of latitude and longitude coordinates approximating the 100-fathom contour
  - a. In the Eureka area: This permit **does not** authorize a vessel to take and retain more than 10,000 pounds of Pacific whiting per trip shoreward of latitude and longitude

coordinates approximating the 100-fathom contour in the Eureka area (43°00' N. lat. - 40°30' N. lat.).

- b. Coastwide: If NMFS projects the catch of Chinook salmon in the Pacific whiting fishery to exceed the 11,000 fish, a Salmon Conservation Zone, wherein all fishing for whiting would be prohibited, will be established until the EFP is terminated. NMFS will officially announce the effective date of the Salmon Conservation Zone by email ([westcoastgroundfish@noaa.gov](mailto:westcoastgroundfish@noaa.gov)), facsimile and/or email to the state representatives identified in section I.1. of this permit, and/or a Notice to Mariners. Written notice will also be provided to all EFP holders. The Salmon Conservation Zone is defined as: All waters shoreward of a boundary line approximating the 100- fm (183- m) depth contour. Latitude and longitude coordinates defining the boundary line approximating the 100-fm (183-m) depth contour are provided at § 660.393(a).

#### G. GEAR RESTRICTIONS.

1. Only legal midwater trawl gear described at §660.381 may be used for fishing under this EFP.

#### H. OBSERVER AND OTHER MONITORING REQUIREMENTS.

1. At-sea observations. If requested, a vessel must carry a state-sponsored sampler or Federal observer to collect data that can be used to evaluate data collected by the EM system identified under H.S. Any state sampler must be approved by NMFS before at-sea deployment. Regulations at 50 CFR 660.306 and 50 CFR 660.314 regarding vessel responsibilities and prohibitions apply to both state samplers and Federal observers.
2. Federal observer coverage requirements at 50 CFR 660.360 and 50 CFR 660.314 are independent of state sampler requirements. Vessels that carry a state-sponsored sampler may also be required to carry a NMFS observer. A state sampler is not a substitute for a Federal observer and a vessel carrying a state sampler is not exempt from federal observer requirements.
3. Electronic Monitoring (EM) Equipment A vessel fishing under this EFP will be required to carry electronic monitoring equipment to monitor for at-sea discarding of catch, unless the requirement is specifically waived by NMFS.
  - a. A vessel intending to fish under this EFP must schedule a time with the NMFS-specified EM provider for installation of the system. The installation must be scheduled before the vessel leaves port on the next EFP fishing trip. If an EM system is not installed before the next EFP fishing trip, the permit is invalid. However, on a trip-by-trip basis NMFS may choose to waive the requirement for installation if the equipment cannot be installed within 12 hours of the scheduled time.
  - b. As necessary, the vessel operator must schedule maintenance of EM equipment and data removal by the NMFS specified EM provider by scheduling an appointment. If the vessel operator does not schedule these services it will be a violation of the terms and conditions of this permit.

- c. While EM equipment is aboard the vessel, the system must not be interfered with, damaged, or the power source turned off. If the EM system is interfered with, damaged, or the power source turned off, it will be a violation of the terms and conditions of this permit and the permit.
- d. Vessel operator must regularly check status lights located on the EM system control box to confirm that the EM system is functioning properly. If status lights indicate an EM system malfunction, the vessel must contact the NMFS specified EM provider immediately. For 2005, the NMFS specified EM provider is Archipelago Marine Research Ltd. Contacts: Project manager - Howard McElderry (1.800.663.7152); Field services – XXX
- e. At the end of the shore-based whiting primary season or termination of the EFP, the EFP holder must schedule removal of the EM system with the NMFS specified EM provider.

#### I. NOTIFICATION REQUIREMENTS.

- 1. If requested, the EFP holder must provide departure and arrival notification to the State or observer program coordinator including reasonable notice of unexpected changes in fishing plans, to allow installation and maintenance of electronic video monitoring equipment, and for deployment of at-sea observers, if any. State coordinators are:

California: Mike Fukushima, California Dept. of Fish and Game, 707- 441-5797.

Oregon: Steve Parker, Oregon Dept. of Fish and Wildlife, 541-867-0300

Washington: Brian Culver, Wash. Dept. of Fish and Wildlife, 360-249-4628

- 2. For landings in California, the vessel operator must notify CDFG at least 12 hours before departing port to commence fishing under this permit.

J. REPORTING REQUIREMENTS. It is unlawful to fail to report catches as required while fishing pursuant to an exempted fishing permit (50 CFR 600.725(l)). Failure to maintain the required documents may result in a vessel's inability to obtain a future permit.

- 1. Trawl Logs. Trawl logbooks must be maintained by the vessel operator as required by the applicable state law. "Exempted Fishing Trip" (or "EFP") must be written in the log for each trip conducted under this permit.
  - a. Estimated pounds of all species, including, but not limited to, whiting, other groundfish, salmon, Pacific halibut, and Dungeness crab, observed in each tow must be recorded in the logbook.
  - b. If discard occurs, an estimate of the total discard amount for each species, to the extent possible, location of the tow, and reason for discarding must be recorded and labeled "discard" in the logbook, on the line associated with that tow, as required by the State of landing.
  - c. If discard occurs as a result of gear malfunction, a description of the event must be recorded in the logbook and labeled "gear malfunction" in the logbook, on the line associated with that tow.

2. Other Reports. This permit does not relieve any person from any other state or federal reporting requirements.
3. Public Release of Information. The fishing activities carried out under this permit, which are otherwise prohibited, are for the purpose of collecting information. The vessel owner, operator, and EFP holder agree to the public release of any and all information obtained as a result of activities conducted under this permit, including EM provider access to logbooks to record information during periodic EM maintenance and service.

#### K. LANDINGS.

1. All landings must be at processing plants that are listed in the Designated Processor List (DPL) in Appendix A to this EFP. Vessel owners with vessels that participate in both the April 1 shore-based whiting fishery opening (south of 42° N. lat.) and the June 15 fishery opening (coastwide, including north of 42° N. lat.) must ensure that they get an updated DPL prior to June 15, 2006 in order to participate in that coastwide fishery opening.
  - a. The DPL in Appendix A may be revised, after consultation between NMFS and the State observation program coordinator. The observation program coordinators for each state are as follows:

In California: Mike Fukushima, California Dept. of Fish and Game, 707- 441-5797.

In Oregon: Steve Parker, Oregon Dept. of Fish and Wildlife, 541-867-0300

In Washington: Brian Culver, Washington Dept. of Fish and Wildlife, 360-249-4628

2. All fish caught during an exempted fishing trip must be offloaded at only one designated processing plant (i.e. the offloading of catch from one trip cannot be split between processing plants). Once offloading has commenced at a designated processing plant, all fish onboard the vessel must be offloaded at that plant.

#### L. SANCTIONS.

Failure of the vessel owner, operator, EFP holder, or any person to comply with the terms and conditions of this permit, a notice issued under 50 CFR Part 660, Subpart G, any other applicable provision of 50 CFR Parts 600 and 660 Subpart G, the Magnuson-Stevens Act, or any other regulations promulgated thereunder, may be grounds for revocation, suspension, or modification of this permit as well as civil or criminal penalties under the Magnuson-Stevens Act with respect to all persons and vessels conducting activities under the EFP (50 CFR 600.745(b)(8)).

#### M. WAIVER.

The EFP holder on his/her own behalf, and on behalf of all persons conducting activities authorized by the permit under his/her direction, waives any and all claims against the United States or the State, and its agents and employees, for any liability whatsoever for personal injury, death, or damage to property directly or indirectly due to activities under this permit.

# APPENDIX A

## EXEMPTED FISHING PERMIT MONITORING INCIDENTAL CATCH IN THE PACIFIC WHITING FISHERY

Vessel Name: **xx**

EFP#: 06-HAK-xx

### 1. Designated processor(s):

xx[EXAMPLE:]  
Eureka Fisheries, Inc.  
P.O. Box 217  
Field's Landing, CA 95537  
attn: Tom Devere

ph: (707) 463-1673  
fx: (707) 463-7952

### 2. Changes to this appendix:

<u>Item Changed</u>	<u>Date Approved</u>	<u>Name</u>	<u>Agency</u>
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Authorizing Official