

HIGHLY MIGRATORY SPECIES MANAGEMENT TEAM REPORT ON  
CHANGES TO ROUTINE MANAGEMENT MEASURES

Following the submission of the Highly Migratory Species Management Team's (HMSMT) report for the Council briefing book, the Team received another suggested alternative from Chuck Janisse, Federation of Independent Seafood Harvesters (see attached email). Specifically, with regard to the proposed changes to the drift gillnet fishery regulations Mr. Janisse is requesting that the following alternative be included in the suite of alternatives approved for public review:

4. Require all drift gillnet vessels fishing north of 45° N. latitude have an at-sea federal observer onboard the vessel.

***Discussion:*** While the bycatch data from the Washington/Oregon drift gillnet experimental fishery was not previously used, it suggests that there may be encounters with leatherback sea turtles and/or marine mammals in the area north of 45° N. latitude; therefore, collecting additional data to determine whether a closure is needed may be warranted. However, as noted under Alternative 1, the one Oregon vessel that has fished this area is "unobservable"; therefore there is no way to monitor its bycatch. By requiring an at-sea observer to be onboard the vessel in order to fish in this area, observable vessels could continue to fish in this area, and NMFS could collect data on bycatch and protected species interactions, which could be used to support actions in the future. Additional discussions would be needed with the NMFS SWR Observer Program in regards to available funding and other administrative and logistical considerations for meeting a 100% observer requirement per this alternative.

NMFS is currently testing an electronic monitoring system for drift gillnet vessels. The Council could expand the definition of the observer requirement for this alternative to include electronic monitoring. This would offer the possibility that vessels which cannot accommodate a federal at-sea observer could fish in this area.

**HMSMT Recommendation:**

1. Consider adding Alternative 4 to the suite of alternatives for public review that address the Drift Gillnet Turtle Closure Northern Boundary issue and decide whether to include electronic monitoring as meeting the observer requirement under this alternative.

**Attachment: Email from Chuck Janisse, Federation of Independent Seafood Harvesters**

**Subject:** Proposed DGN Regulation Alternatives

**From:** "Chuck Janisse"

**Date:** Sun, 3 Sep 2006 21:18:35 -0400

**To:** "Kit Dahl" , "Craig Heberer" , "Dale Squires" , "Elizabeth Petras" , "Jean McCrae" , "Michele Culver" , "Stephen Stohs" , "Steve Wertz" , "Suzanne Kohin"

**CC:** "Wayne Heikkila" , "Kit Dahl" , "Mark Helvey"

Highly Migratory Teamsters--

Regarding the proposed set of alternatives noted in the HMSMT Report, and corresponding meeting summary, relating to a change in the northern boundary of the leatherback turtle closed area, I submit the following comments for your consideration:

As stated in the meeting summary, "The genesis for this proposal is the discontinuity between the Washington closure and the seasonal closure farther south" (and not an enforcement issue as originally stated).

Following this rationale, if eliminating area closure discontinuity is the operative goal, and closing the area north of 45 fixes such discontinuity, it would then be logical to close the area south of 45 in order to fix that discontinuity. Close the DGN fishery and there will be no more discontinuity.

Concerning the status quo alternative, the concern expressed in the HMSMT Report is that since the only Oregon permitted vessel that has fished the area is unobservable, there is no way to monitor its bycatch of protected species, especially leatherback sea turtles. This stated concern implies that a regulation requiring observers on all vessels that fish this area would provide data to reveal whether or not protective measures are needed. However, none of the presented alternatives take such an approach. Rather, it's assumed, absent current data, that closing the area north of 45 is necessary to guard against the possible depletion of protected resources by a single unobservable vessel. Not only is closure rationale weak in the extreme, it smacks of a punitive action toward this particular vessel.

Concerning the alternative proposing to extend the leatherback closure boundary from 45 north to the Oregon/Washington border during the August 15-November 15 period, discussion in the HMSMT Report suggests that because observer data from the 1986-88 experimental thresher shark fishery was not considered in the 2000 BiOp that this ESA based time/area closure should be augmented six years after the fact, based on 18 year-old observer data that does not account for the difference in bycatch that may have resulted by the implementation of Take Reduction Plan regulations, as well as HMS FMP regulations that prohibit DGN fishing within the 1,000 fathom curve off Oregon.

Further, observer data (32 sets) for the 1986 and 1987 experimental DGN thresher shark fishery, reported protected resource takes totaling 3 marine mammals (1 Pacific white-sided dolphin, 1 Harbor porpoise, and 1 Northern sea lion), all takes occurring in early July. Observer data (68 sets) for the 1988 experimental DGN thresher shark fishery reported protected resource takes totaling 28 marine mammals (8 Pacific white-sided dolphin, 6 Harbor porpoise, 4 Dall's porpoise, 4 Risso's dolphin, 2 Northern right whale dolphin, 1 unidentified large whale, and 3 Harbor seal), and 13 leatherback sea turtles. Of the 13 leatherbacks, 10 of them (6 of which were caught in one set) were caught north of the Oregon/Washington border, and the remaining 3 were caught before August 10th. None of the leatherback takes

occured in time/area closure being proposed in this alternative. There is a rational basis problem for a time/area closure based on observer data that is unrelated to the regulation being proposed.

Concerning the alternative prohibiting the use of DGN north of 45 year-round, although the HMSMT Report notes that this alternative was analyzed in the HMS FMP, I can find no such analysis. A mere description of the proposed closure (Alternative 7) is all that Chapters 8 or 9 contain. There is no data or other compelling rationale to support such this restriction.

Please understand that my comments are offered in the spirit and support of rational HMS management decision-making. I'm concerned that, based on the information contained in the HMSMT Report, the Council does not have the best available information, nor range of alternatives for this proposed action upon which to rationally select a preferred alternative.

--Chuck Janisse